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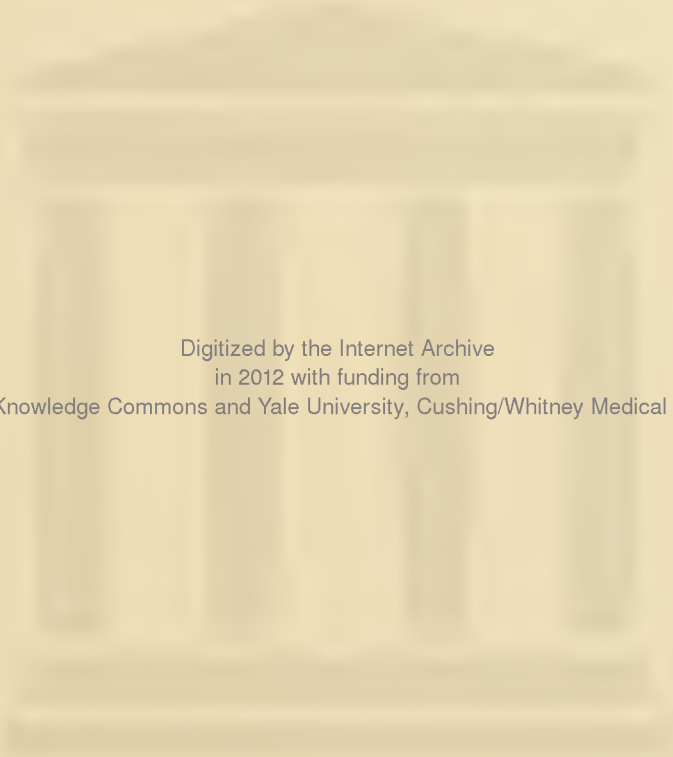


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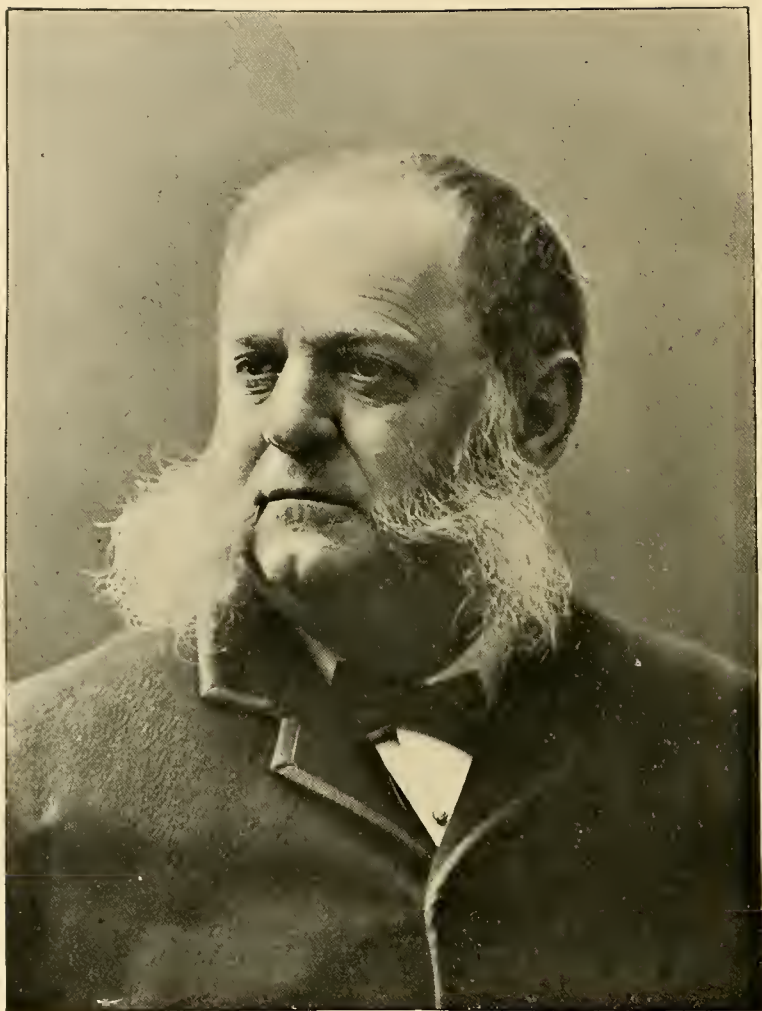
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CLARK BELL, ESQ.,
PRESIDENT MEDICO-LEGAL CONGRESS.

BULLETIN
OF THE
MEDICO-LEGAL CONGRESS,

Held at the Federal Building in the
City of New York,

SEPTEMBER 4th, 5th and 6th, 1895.

Published under the auspices of the Medico-Legal Society by

THE MEDICO-LEGAL JOURNAL,

NEW YORK, 1898.

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ANNOUNCEMENT.

TO THE FELLOWS OF THE MEDICO-LEGAL CONGRESS:—

An apology and an explanation is due to you for the delay in the publication of the transactions of the Medico-Legal Congress, held in New York, in September, 1895.

First. The provision for the expenses of the publication were inadequate, and the plan finally adopted was to publish the papers read before the Congress in the Bulletin, where the authors were willing to aid in defraying the cost of publication.

Second. A considerable number of the papers, presented to the Congress, were read by title, and the manuscript of the articles were not placed in the possession of the officers. Unavoidable obstacles prevented and delayed me in obtaining these much desired copies, and this, coupled with a desire to embrace as many as possible in the volume, and the tardiness of my colleagues in sending the copies of papers, have been leading reasons which occasioned the delay.

Third. A large portion of the work being more than one hundred pages at the beginning of the volume, was completed, but through the dishonorable conduct of a printer was withheld from the officers after full payment had been made, which necessitated the extra expense of reprinting the same over again, at a large cost. A suit had to be brought for redress, which is still pending, but which can not now expedite the work.

The following papers announced in the programme of the Congress have not been included in the present volume, to the great regret of the undersigned, but farther delay in the issue does not seem likely to result in their publication in the near future. It is hoped that most of these may be published later, in an additional volume which I shall do all in my power to

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aid if undertaken and thought advisable. The volume is presented, as the result of the best efforts possible, to present a volume which will be a notable contribution to the literature of forensic medicine, as the result of the labors of that Congress.

NEW YORK, 1898.

CLARK BELL.

We regret that so large a number of papers printed at the Congress have not been embraced in the volume, but its completion could not longer be delayed for this reason. If authors of unpublished papers desire; a large number of these can be still published as a supplement or Part 2 of the Bulletin, which is, however, now larger by far than was expected at the inception.

LIST OF PAPERS OMITTED FROM THIS VOLUME.

- "The Progress of Lunacy," by Dr. Forbes Winslow of London.
- "What Constitutes Unsoundness of Mind," by W. B. Fletcher, M. D., of Indiana.
- "The Mental Symptoms of Premature Decay," by Frank P. Norbury, M. D., of Illinois.
- "Latent Hysteria as a Cause of Temporary Mental Disease," by James R. Cocke, M. D., of Boston.
- "Paranoia," by Prof. C. H. Hughes, M. D. of St. Louis.
- "Simulation of Insanity," by Wm. F. Drewry, M. D., of Petersburg, Virginia.
- "Inebriety and the Opium Habit in their Relation to Testamentary Capacity," by E. C. Mann, M. D., of New York.
- "Prostitution; the Evil and the Cure," by Gustave Boehm, Esq.,
- "The Megalomania of H. P. Blavatski. A Study of Criminal Alienism," by Prof. Elliott Coues, of Washington, D. C.
- "The Evolution of Theosophic Medicine and its Present Standing in the United States," by P. C. Remondino, San Diego, Cal.
- "Hypnotism in the German Courts: The Czynski Case, by Elwood Wilson, Esq.
- "Duplex Personality," by Wm. F. Drewry, M. D., of Virginia.
- "Duties of the Railway Surgeon to the Corporation, to the People and to Himself," by Prof. A. M. Phelps, M. D., of New York.
- "Mental States of Railway Employees," by Chief Surgeon W. B. Outten, M. D., of St. Louis.
- "Tuberculosis in Legal Medicine," by Chief Surgeon W. B. Outten, M. D., of St. Louis.
- "Shock in Railway Surgery," by H. W. Mitchell, M. D.
- "The Relation of Occult Medicine to Law," by Mary Weeks Burnett, of Chicago, Ill.
- "Physician's Relation to his Client and Obligation as a Citizen of the State," by Constantine J. MacGuire, M. D., of New York.
- "The Legal Evolution of Woman," by Kate L. Hogan, LL. B., of New York.
- "What Are We?" by Hon. C. H. Blackburn, of Cincinnati, O.
- "Intermediate Sentences, as Affecting Congenital Criminals," by Geo. Gordon Battle, Esq.
- "Relation Between Chemical Constitution and Physiological Action," by Prof. Peter Townsend Austin, of Brooklyn.
- "What may be the Part of Bacteriology in Forensic Medicine," by Paul Gibier, M. D.
- "Toxine and Anti Toxine of Tetanus," by Paul Gibier, M. D., of N. Y.

PREFACE.

The progress achieved in science during this century, is so wonderful and astounding, that no man however gifted and versatile in his accomplishments, can hope to master more than one of the disciplines, with any prospect of becoming an adept in those which he selects for investigation. An Alexander von Humboldt (the great phenomenon of an encyclopædic science) would stand awed before the task of presenting a comprehensive account of the great achievements accumulated since the appearance of his "Cosmos." Nor has there even been a more universal demand for the practical utilization of the discoveries, made in the laws which govern the universe, than at present.

The researches in Bacteriology, Biology, Physiology and Analytical Chemistry, are turned into channels by which a greater longevity is achieved, and the revelations of the microscope and the spectroscope, have led to discoveries, which teach us that pathological destruction, is caused by minute particles of proteine nature, which we learn to combat by anti toxine agencies. There is no conservatism in natural and medical sciences. Every new discovery is received with acclamation, tried, tested, applied and closely investigated, and the old theories and practices are readily discarded to make room for the new light. Not so in jurisprudence. It is true our modern laws are more humane, take greater account of human nature, but after all the old ideas, are adhered to with greater tenacity, and the precedents established in the old English interpretation of the principles of jurisprudence, are upheld to-day as the principles governing all the English-speaking communities. Jurisprudence has not been oblivious to the advanced knowledge gained in physiology, as applied in psychiatry, and to a better understanding of the mechanical workings of the human

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organism, but in no scientific discipline has progress been so slow as in medico-legal science. It is the proverbial conservatism of the legal fraternity, which makes courts and judges go very slow in the application of the humane view, we should take to the influence of an entirely different social structure, which the application of law and justice should take into consideration, in the administration of justice. This is only possible, however, by a thorough co-operation of the medical and legal fraternity. Since Pater Zacchias in Sahta-Rpta published his remarkable work, "*Quaestiones medico legales*" in the seventeenth century very little progress has been made in medico-legal science.

In spite of the labors of Brown, Bucknill, Maudsley, Nicholson, Taylor and Tuke in England, and of Beck, Elwell, Ewell, Wharton, Bell and others in this country, England and America are far behind France, Germany and Italy in this branch of science, and greater efforts should be made to awaken the interest which every student of jurisprudence, every devoted disciple of Æsculapius should bring toward it. Physician and lawyer should be brought into closer intercourse for the purpose of considering the weighty questions which can only be properly solved by the united labors of both faculties. Especially are there questions which await solution, such as the change in our treatment of the evidence given by experts; the treatment of the plea of hypnotic influence when presented in a court of justice; questions of criminal law and the criminal himself; the administration of justice, in cases of great social disturbance; the responsibility of the mentally alienated for their acts of commission or omission; the decree of mental unsoundness which should nullify testamentary disposition; all the questions arising in railway and other damage cases; toxicological and many more questions which call for the earnest consideration of the physician and the lawyer. Convinced that a congress of men, distinguished for the position which they hold in their profession, and known for their devotion to science and knowledge, and the interest which they take in advancing

PREFACE.

every science that leads to a higher civilization would give a greater impulse to the studies in the field of medico-legal science, and in view of the large membership of the Medico-Legal Society, dispersed throughout our country and the world, an invitation was extended by a committee of the Medico-Legal Society to all interested in medico-legal science to attend an American Congress of Jurists and Physicians which met at the Federal Halls of Justice, under the authority and with the consent of the Government of the United States in the City of New York on the 4th, 5th and 6th of September, 1895.

The Congress thus held was a notable event in the history of the Medico-Legal Society, and the most conspicuous movement in Forensic Medicine of our time. The International Medico-Legal Congress, which, under the auspices of the Medico-Legal Society, had held its first session in the City of New York in June, 1889, perfected its organization, and held its second session at Chicago during the World's Exposition in that city in 1893, had given the result of their labors to the literature of Forensic Medicine, but it remained for the present Congress, to achieve a success, beyond the most sanguine expectations of its originators, and these labors had been aided by the public press in such a wonderful and phenomenal manner, that the work of the present Congress was brought into great prominence before the public mind so as to excite a profound interest in the labors of the body and the questions it presented for discussion.

To meet this great interest, and make an enduring and permanent record of the labors of this body, a Bulletin has been prepared to give to the Students of Science in all countries the benefits of the labors of the body upon the North American Continent.

This Congress was called, and the arrangements made for its meeting by the following Committee of Arrangements, chosen by the Executive Committee of the Medico-Legal Society:

Hon. Rastus S. Ransom, Chairman, 160 Broadway, New York.

Clark Bell, Esq., Secretary, 39 Broadway, New York.

Geo. Chaffee, M. D., Treasurer, 223 47th St., Brooklyn, N. Y.

Moritz Ellinger, Esq.

PREFACE.

Hubbard W. Mitchell, M. D.

Constantine J. MacGuire, M. D.

Prof. A. M. Phelps, M. D.

The transactions of the body will appear in the present volume. The original papers contained herein have been selected from the papers read before the Congress, and the volume called the Bulletin of the Medico-Legal Congress, which it is hoped will ultimately contain them all, at so low a price as to be within the reach of every member of the society, or student of the science.

It is expected to be sold for the low price of \$2 per volume, if sufficient encouragement is given the officers of the Congress to enable the bulk of the papers to be published.

The Bulletin will be published in parts, for the purpose of enabling all the papers, omitted in part one, to be embraced in the succeeding part for the reason that the whole number of papers presented and embraced in the programme of this Congress forms by far the most notable contribution to the literature of Forensic Medicine of the present century.

NEW YORK, June, 1896.

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London.

MORITZ ELLINGER, ESQ.,
Cor. Sec'y Medico-Legal Society,
of New York.

HON. RASTUS S. RANSOM,
Chairman Committee of Arrangements,
Medico-Legal Society.

TRANSACTIONS.

MEDICO-LEGAL CONGRESS.

VACATION OF 1895.

HELD AT THE FEDERAL COURT ROOMS IN THE CITY OF
NEW YORK, SEPTEMBER 4, 5 AND 6, 1895, UNDER
THE AUSPICES OF THE MEDICO-LEGAL
/ SOCIETY OF NEW YORK.

The Congress assembled at the United States Court Rooms, Postoffice Building, Broadway, New York City, on Wednesday, September 4, 1895, at 10 o'clock A. M.

Hon. Rastus S. Ransom, Chairman of the Committee of Arrangements, presided and made the opening address of welcome to members and delegates, Mr. Clark Bell acting as Secretary.

The following composed the committee of arrangements:

Hon. RASTUS S. RANSOM, Chairman,

160 Broadway, New York.

CLARK BELL, Esq., Secretary,

57 Broadway, New York.

GEO. CHAFFEE, M. D., Treasurer,

223 47th St., Brooklyn, N. Y.

MORITZ ELLINGER, Esq.

CONSTANTINE J. MacGUIRE, M. D.

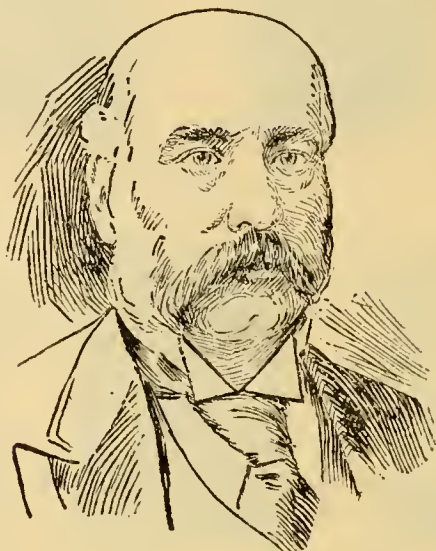
HUBBARD W. MITCHELL, M. D.

Prof. A. M. PHELPS, M. D.

The Chair introduced the Hon. Noah Davis, ex-presiding Justice of the Supreme Court of New York, and honorary member of the Medico-Legal Society, who made a short address. Judge Calvin E. Pratt, of the Supreme Bench of Brooklyn, who had consented to speak at the opening, was prevented from attending by illness.

Hon. John W. Goff, Recorder of the City of New York, who was announced to make an address, was in attendance at the opening of the Congress, but, as he was holding court, was obliged by his duties to leave the Congress without speaking, owing to delay in opening the exercises.

Dr. L. Frobes Winslow, of London, was then introduced by the Chair and made a short address.



DR. L. FORBES WINSLOW.

A telegram from W. B. Outten, Chief Surgeon of the M. P. Railway System, who had been announced to speak, was read by the Secretary, announcing his illness and inability to be present, and a communication



W. D. OUTTEN, M. D.
Chief Surgeon in Mo. Pac. Railway System, Vice-President
Medico-Legal Congress.

from Granville P. Conn, Chairman of the Section on Railway Surgery, Concord, N. H., announcing that his preemptory engagement as a witness in court as railway surgeon prevented his appearance, and one from Geo. L. Porter, M. D., of Bridgeport, Conn., explaining his enforced absence.

Prof. R. Ogden Doremus, Ex-President of the Medico-Legal Society, and professor of chemistry and toxicology in the College of the City of New York, was then introduced and made an address.

Dr. William J. O'Sullivan, Esq., of the bar of New York City, was then introduced and made an address.

Judge Abram H. Dailey, Esq., Ex-President of the Medico-Legal Society and Ex-Surrogate of Kings County, made an address.



HUBBARD W. MITCHELL, M. D.

Hubbard W. Mitchell, M. D., President of the Medico-Legal Society, was introduced by the Chair and made an address, he said:

Mr. Chairman, Ladies and Gentlemen: I am handicapped by the flattering remarks made to you by my friend, Judge Ransom. He has been pleased to speak of me in a way which is indeed gratifying, and as the Judge always says handsome things, these pleasant remarks are quite in line with his usual methods.

Judge Ransom has welcomed you in his honorable capacity, as Chairman of the Medico-Legal Congress, and

his warm words of welcome must be grateful to you all ; and I, as President of the Medico-Legal Society, also extend to you a most hearty and most cordial welcome.

This Congress is the first of its kind that has ever been held in this country, and distinguished scientists from different parts of Europe have braved the perils of the Atlantic in order to attend here. One among which number is a man whose name is eminent throughout the world as an alienist. He has crossed the seas and come to New York a stranger, and, curiously enough, he finds on this side of the Atlantic a relative whom he little expected to meet, and I have the honor to be that relative.

Perhaps some of you are not aware of the great importance of the Medico-Legal Society—the parent of this Congress.

Twenty-five years ago the two great professions of medicine and of law stood apart. They looked at each other somewhat askantly ; neither appreciated nor understood fully the high mission of the other. A few thoughtful and earnest men advanced the idea that it would be a good thing to unite these two professions, and the Medico-Legal Society was the result of their wise deliberations. During its existence, covering a period of a quarter of a century, it has made itself felt not only in our own country, but throughout the world. Its voice has been raised in behalf of every reform ; it has sought to exert a better influence upon legislation, and in consequence wise and better laws have been enacted. It has struck at many abuses, and, as a result, these abuses have been to a great extent modified or wholly abolished. It has persistently raised its voice for wiser statutes, and it has insisted that greater justice to all classes should be done in our courts.

In municipal affairs it has sought to give us a better and more efficient government, and, as a result, we have to-day in New York City, a well-governed municipality, and as safe, as far as life and property are concerned, as any city in the world. It has put out its hand and demanded that better sanitary provisions should be enforced, and its advice has been heeded, until we have to-day the cleanest and best-paved streets of any city upon this continent, and perhaps anywhere in Europe.

The work of this great Society has been of a missionary character also. Some years ago we had a purlieu in New York called the Five Points. It seemed to be the cesspool where all the vice and crime of the metropolis gravitated, and it was the canker spot upon our municipal civilization. A few well-meaning men and women banded themselves together for the purpose of making this plague spot better, and they set to work to educate the people by leaving tracts exhorting the denizens of that locality to lead a purer life through the influence of religion. But the Medico-Legal Society took a more practical view, and insisted that the streets leading to and from this wretched place should be repaved and kept clean. The piles of ashes and garbage that were to be seen there, and which exerted such deleterious influences upon the minds and bodies of men, were removed. The sewerage and drainage were made better, and new laws were enacted compelling the people to observe better sanitary conditions; and now the Five Points is as safe and wholesome as any neighborhood in our great city.

The Medico-Legal Society has advocated the abolition of the Coroner's office; it has insisted that purer politics should prevail, and that a better government should be

had for this great city; and as a result of this tireless demand on the part of this Society, we see the fruits of its labors in many directions.

During the past few years of its career it has organized several branches; among them is the Section of Railway Surgery. Up to within a recent time the importance of the railway surgeon was not appreciated. Our great railways in this country form a great part of our wealth, and their importance from the point of view of civilization cannot be overestimated. In such a mighty system, abuses crept in in the way of injustice both to those who were injured in the service of the company and to the companies themselves.

The railway surgeon stands in a peculiar position. It is his office to relieve suffering, which too often happens upon our great lines. And it is his further office to protect the railway companies against fraud. This section has grown to be one of great importance, and the railway surgeons throughout the country have banded themselves together into a powerful organization, and this organization is the creation solely of the Medico-Legal Society.

Another section was that of Psychological Research. It has aimed to enter the realm of mysticism and to hold up to the light of day all that savored of occultism or mystery. This section has endeavored to find out what constitutes hypnotism and the many phenomena belonging to it; and, while it is young, it is doing most excellent work.

This great Congress of medical, legal and scientific men which is here assembled is the creation of the Medico-Legal Society.

In the fertile brain of one of our members the idea

originated, and the learned men and scientists of New York have the proud satisfaction of seeing gathered here to-day a noble band of earnest workers, who, with their valuable papers—the result of laborious research upon many difficult scientific subjects—will surely make the world better for having congregated here.

Ladies and gentlemen, permit me once more to cordially and heartily welcome you to this first Medico-Legal Congress, which, while it is the pioneer of its kind, it will also be the great parent of future congresses that are sure to follow; and the impetus which they will receive from this will stimulate the ablest men among us to strive for still higher and nobler truths, which will have the direct effect of making life better and more worth living.

Albert Bach, Esq., Vice-President of the Medico-Legal Society, was introduced and made an address.

Letters of regret at their inability to be present, and of cordial sympathy with the objects of the Congress were read from *ex-Gov.* R. P. Flower, Judge James L. Benedict, Judge Addison F. Brown, Judge H. R. Beekman, of New York; Hon. Sabine Smith, President of the Society of Medical Jurisprudence of New York; Thos. G. Morton, M. D., Chairman Pennsylvania State Board of Lunacy; Hon. Charles W. Dayton, Postmaster New York City, and W. S. Harnden, M. D., President New York State Railway Surgeons.

Mr. Clark Bell was then introduced by the Chair and made a short address.

Mr. Albert Bach moved the appointment by the Chairman of a committee of five to nominate permanent officers of the Congress, which was seconded by Judge A. L. Palmer, of the Supreme Bench of New Brunswick, and carried.

The Chair appointed as such committee: Albert Bach, Esq., Chairman; Prof. Charles A. Doremus, M. D., of New York; Judge A. L. Palmer, of New Brunswick; W. S. Watson, M. D., of New York, and Irving C. Rosse, M. D., of Washington, D. C.

The committee reported, recommending the following officers:

President :

CLARK BELL, Esq., of New York.

Legal Vice-Presidents :

Judge ABRAM H. DAILEY, of Brooklyn, N. Y.

Judge NOAH DAVIS, of New York.

Senator CHARLES L. GUY, of New York.

Dr. WILLIAM J. O'SULLIVAN, of New York.

Judge A. L. PALMER, of St. Johns, N. B.

Judge CALVIN E. PRATT, of Brooklyn, N. Y.

Judge RASTUS S. RANSOM, of New York.

Medical Vice-Presidents :

T. D. CROTHERS, M. D., of Hartford, Conn.

FRANK H. CALDWELL, M. D., of Florida.

Prof. R. OGDEN DOREMUS, of New York.

PAUL GIBIER, M. D., of New York.

WM. B. OUTTEN, M. D., of St. Louis, Mo.

HUBBARD W. MITCHELL, M. D., of N. Y.

Dr. L. FORBES WINSLOW, of London.

Scientific Vice-President :

M. LOUISE THOMAS, of New York.

Honorary Vice-Presidents :

Hon. AUSTIN ABBOT, Esq., LL. D., of N. Y.

Dr. HAVELOCK ELLIS, of England.

NORMAN KERR, M. D., of London.

HERMAN KORNFELD, M. D., of Grotkau, Silesia.

ISAAC N. QUIMBY, M. D., of N. J.

Hon. GEO. H. YEAMAN, of New York.

Honorary Secretaries :

W. B. FLETCHER, M. D., of Indiana.

Prof. CHAS. H. HUGHES, M. D., of St. Louis, Mo.

Prof. W. XAVIER SUDDUTH, of Chicago, Ill.

G. E. SHUTTLEWORTH, M. D., of England.

SELTON H. TALCOTT, M. D., of New York.

Prof. M. C. WHITE, M. D., of New Haven, Conn.

Secretaries :

ALBERT BACH, Esq., of New York.

MORITZ ELLINGER, of New York.

F. B. DOWNS, M. D., of Bridgeport, Conn.

Prof. CHAS. A. DOREMUS, M. D., of New York.

CLARENCE A. LIGHTON, Esq., of Detroit, Mich.

Treasurer :

GEORGE CHAFFEE, M. D., of Brooklyn, N. Y.



F. B. DOWNS, M. D.,
Secretary Medico-Legal Congress.

On motion, the report was received and adopted.

On proceeding to ballot, the names recommended by the committee were declared unanimously elected.

The Chairman then introduced Clark Bell, Esq., the President-elect, who made an inaugural address, and declared the Congress duly organized for the transaction of business, and the officers elected duly installed.

The Congress then took a recess till 2 p. m.



G. BTTINI DI MORCK, M. D.,
Bacteriologist Medico-Legal Society.

WEDNESDAY, FIRST DAY.

Sept. 4, 1895—Afternoon Session at 2 p. m.

1. "Psychology and Psychological Medicine."—In charge of the officers of the Psychological Section of the Medico-Legal Society, composed as follows:

Prof. ELLIOTT COUES, Washington, D. C., Chairman.

Vice-Chairmen:

CLARK BELL, Esq., New York.
 HAROLD BROWETT, Esq., Shanghai, China.
 C. VAN D. CHENOWETH, Mass.
 F. E. DANIEL, M. D., Texas.
 ROBERT J. NUNN, M. D., Georgia.
 A. E. OSBORNE, M. D., California.
 JAS. T. SEARCY, M. D., Alabama.
 HENRY HULST, M. D., Michigan.

This branch is divided into four departments:

FIRST DEPARTMENT.

(a) "Insanity and Mental Medicine."—In charge of Dr. L. Forbes Winslow, of London, Chairman, and the following Vice-Chairmen:

T. S. W. BURGESS, M. D., Sup't, etc., Montreal, Can.
 ALICE BENNETT, M. D., Sup't, etc., Norristown, Pa.
 DANIEL CLARK, M. D., Sup't, etc., Toronto, Can.
 RICH'D DEWEY, M. D., Sup't, etc., Milwaukee, Wis.
 W. F. DREWRY, M. D., Sup't, etc., Petersburg, Va.
 W. B. FLETCHER, M. D., Sup't, etc., Indianapolis, Ind.
 CLARKE GAPEN, M. D., Sup't, etc., Kawkakee, Ill.
 Prof. CHARLES H. HUGHES, M. D., St. Louis, Mo.
 THOS. G. MORTON, M. D., Chairman State Lunacy
 Board, Philadelphia, Pa.
 E. C. MANN, M. D., Sup't, etc., New York City.
 FRANK P. NORBURY, M. D., Jacksonville, Ill.
 G. R. TROWBRIDGE, M. D., Buffalo, N. Y.
 D. R. WALLACE, M. D., ex-Sup't, Waco, Texas.

The President, Clark Bell, in the Chair, introduced Dr. L. Forbes Winslow, of Loudon, as Chairman of the first department, Insanity and Mental Medicine. Dr. Winslow took the chair and made an address.

CRIMINALS AND THEIR PUNISHMENT.

GEORGE L. PORTER, M. D., BRIDGEPORT, CONN.

ADDRESS AT OPENING OF MEDICO-LEGAL CONGRESS.

*“Mr. Chairman:—*It is very gratifying to the members of the New York Medico-Legal Society, and must be especially so to the gentlemen proposing these meetings, and to our efficient and energetic Secretary, that the wisdom of convening this Congress is attested by the wide interest, which is manifested by the number, and the diversified subjects, of the papers prepared for its consideration, by the representative character of its membership, and by the cordial references in the daily press, to the important influences which it may exert.

“The questions here discussed, the theories presented, and the opinions which may be formulated and adopted, together with their logical results, concern not alone the two noble professions here represented, but will directly, or indirectly, affect in some degree every member of the body politic. An appreciation of this responsibility imposes upon our proceedings conscientious deliberation and careful expression.

“The time is propitious. We are in a period of unrest, when there is an anxious investigation, by the advanced students of our professions, of the very fundamental principles of the science of medico-legal jurisprudence.

“Publicists differently estimate the deterrent and reformatory effects of various punishments. No authoritative standards have been erected, or accepted, by which to measure the responsibility of a criminal, claiming to have acted under conscious, or hypnotic mental influence, which deprived him of self-control.

“A theory, rapidly growing, holds that unlawful acts are not properly crimes, but evidences of disease: that medical treatment, and not the punishment of the law, should be given to so-called criminals; that hospitals and not prisons should be their places of detention.

“For the elucidation of these important questions we expect much from the experience and wisdom of the gentlemen composing this Congress.

NOTE.—Dr. Porter, who was unable to be present, forwarded his intended remarks, which should have appeared among the opening addresses.

DR. L. FORBES WINSLOW.

Address on Opening Department of Insanity and Mental
Medicine, Medico-Legal Congress.

Gentlemen: It has given me the greatest pleasure to accede to the request of your worthy President, Mr. Clark Bell, to preside over the Psychological Branch of your Congress, and to read a paper on Mental Medicine. This distinction conferred upon me is one not lightly to be esteemed. To be chosen from a body of distinguished physicians and medico-legal jurists of admitted eminence and profound learning, of great scientific attainments and undoubted eloquence, is an event which I shall long cherish as a compliment of the highest description, and will ever prove to me one of the most agreeable and gratifying occurrences of my checkered career.

The subject chosen is an immense one, and it is impossible to condense such a vast question into one solitary lecture, and how to bring the question before your Congress in the most acceptable way has caused me much thought.

I have avoided the question of Criminal Responsibility of the Insane. I am sorry that I could not have included it within this branch of the Congress, but time now prevents, for it seems to me to belong distinctly to the branch of Mental Jurisprudence, and I shall treat it



PROMINENT AUTHORS AND OFFICERS OF THE MEDICO-LEGAL CONGRESS

HON. JNO. W. GOFF,
Recorder of New York City.

ISAAC N. QUIMBY, M. D.,
Jersey City, N. J.

EDWARD P. BUFFETT, M. D.,
Jersey City, N. J.

H. W. MITCHELL, M. D.,
Ex-President Medico-Legal Society,
of New York.

T. D. CROTHERS, M. D.,
Editor Journal of Inebriety,
Hartford, Conn.

DR. L. FORBES WINSLOW,
of London.

W. B. OUTTEN, M. D.,
Chief-Surgeon M. P. Ry. Co.,
St. Louis, Mo.

separately on another occasion before the Medico-Legal Society. I will now trace the gradual progress of lunacy from the earliest periods up to the present time, briefly referring to its state in various countries. This will lead me up to the discussion of the Insanity of Civilization, and I will conclude with a few remarks upon the Diagnosis of Insanity in general.

I hope the Society will pardon me on this occasion of my first visit to the United States for alluding to the memory of my revered father; no account of the history of insanity would be replete without doing so.

Following in the steps of Pinel, the Dukes of York and the late Dr. Connolly, he was one of the first to systematize a gentle persuasive and loving treatment of the insane, who had hitherto been regarded in the light of wild beasts, to be cured and restrained by bolts, bars and keepers' whips, rather than as human beings, fallen, indeed, from that high estate, but amenable to tenderness and judicial kindness. He it was who created the science of psychology, and gave it a local habitation and a name—at least so far as Great Britain is concerned. He was the first physician who urged the plea of insanity in criminal cases—a plea which has outlived the assaults of popular clamor and ignorance, and is now accepted as valid in the courts of law.

He has largely contributed to the literature of the country, "Opus Magnum," the "Obscure Diseases of the Brain and Mind," being one of the scientific classics of the English language. These achievements, combined with his successful ministry to the "mind diseased," and his unvarying kindness, generosity and deep religious feeling, have earned for him a world-wide reputation—a

reputation which will shine with purer and clearer lustre as time allows of full justice being done to the great work he has accomplished.

He is now happily beyond the reach of all human criticism. The work of his anxious life consummated, he sleeps well. The ninth son of Capt. Thomas Winslow, of H. M. 47th Regiment of Foot, and of Mrs. Mary Winslow, whose memoirs, under the title of "Life in Jesus," have obtained for her considerable celebrity in the religious world, was born in London, 1810.

My father was a lineal descendant of the famous Edward Winslow, first Governor of New Plymouth, one of the leaders of the Pilgrim Fathers, who left England in the Mayflower in 1620. During the war of Independence the Winslows were ardent Royalists, and at the termination of the war all the extensive family estates at Boston were confiscated, and my family, Dr. Winslow's family, came to England. He was educated in Scotland, and commenced his professional education in New York, completing it in England.

At the commencement of his career, owing to the straightened family circumstances previously alluded to, my father was met by obstacles on all sides. He arrived in London with half a dollar in his pocket, and now commenced the struggle. He got an immediate appointment in the "Times" office, and his duty was to report the Parliamentary speeches, which appeared in extenso in the morning, after which he would go to the dissecting-room, and with the aid of a candle, work into the early hours. With this, and the proceeds he obtained for some books bearing on medicine before he was qualified, he paid all his own fees during his cur-

riculum without any assistance, and he qualified in 1835, and gradually worked his way up, a self-made man, to the highest position in the branch of the profession he had chosen as his own. Besides being one of the greatest contributors to the literature of psychology, he was engaged in the chief medico-legal cases during a long period of his career, the first being the case of Macnaughten, well known to all students of mental jurisprudence, when he was, though not engaged in the case, publicly called by the judge, who knew he was in court, though only a spectator at the time. So much for his professional life and public life.

Of his generosity and kindness to needy members of the profession and to those around him, of his geniality and brightness and the religious principles, which enabled him to minister to the souls as well as the minds of his patients, it is not my desire to speak. These are written, I trust, in the records of another book.

He died March, 1874, having earned for himself an imperishable memorial in the love and gratitude of his countrymen. He always entertained, from his earliest recollection, the most sincere affection for all American citizens, in whose country he had lived in his early days, and always had expressed the utmost desire to revisit your shores. This, however, he was unable to do; but this pleasure has been left to one ever thirsting for knowledge and enlightenment, but only a poor representative to the illustrious man to whom I have briefly alluded.

A letter from Dr. W. B. Fletcher, of Indiana, who had been announced to make an address and read a paper, was read, expressing great regret at his unavoidable detention, and from Thos. G. Morton, M. D., who had been announced to preside.

The Chair introduced Clark Bell, Esq., who made an address.

The Chair introduced E. C. Mann, M. D., who made a short address.

In the absence of Dr. Thomas G. Morton, of Philadelphia, Selden H. Talcott, M. D., Superintendent of the State Hospital for the Insane at Middletown, New York, was called to the chair to preside over the reading of papers, and their discussion, and made a short address on taking the chair.

INSANITY; ITS NATURE AND CAUSES.

By Selden H. Talcott, M. D., Superintendent State Hospital for Insane, at Middletown, N. Y.; Honorary Secretary Medico-Legal Congress.

Opening Address as Chairman over the reading of papers and their discussion, Department of Insanity and Mental Medicine, at Medico-Legal Congress, September 4, 1895.

"Telling the truth is like courting a widow—the thing cannot possibly be overdone!" I was very much surprised that our friend, Mr. Clark Bell, the President should ask me to make a few remarks in the absence of Dr. Thomas G. Morton, of Philadelphia, which is hardly within my province. I belong to the class who believe in the old Greek motto, "Deeds instead of words."

I am interested very much in the remarks made by our friend, Dr. Forbes Winslow, in his admirable address, and it is proper to state that when he gets

through telling the truth and making remarks, there is not much left for any one else to say.

Speaking about insanity, its causes and its nature, is to speak upon a subject as vast and profound as the depths of the ocean and as lofty as mountain peaks. It is a subject which resents bounds on limitations, for it affects all classes in the community—the rich and the poor, those who work and those who do not work—and its effects are generally most disastrous among those who “live high” and do no useful work in this world. Kings go crazy to the tune of 1 to 60, while the common people become insane at the rate of about 1 in every 400 in our country.

Concerning the nature of mental disorder, I remember that a patient once said to me; “Insanity is allowing the imagination to get the better of one’s judgment;” and perhaps there is something practical in that untutored opinion. Of course, insanity is generally based upon wrong impressions. These lead to delusions, as false beliefs, hallucinations, false perceptions, illusions, mistaken perceptions. The important fact concerning insanity is, that it renders men and women almost absolutely helpless. They, therefore, need care; care which they cannot bestow upon themselves, and which oftentimes cannot be afforded by their friends; hence the necessity of hospital treatment for the insane, and that treatment is now becoming prevalent in all civilized communities. The only question is how to administer it.

I would like to add to what has been said by Dr. Winslow, that progress in the care of the insane may be divided in four epochs—the epoch of the mountain

cave, the prison, the asylum and the hospital. The treatment of the insane now accorded is similar to that bestowed upon all sick people. They are treated with the same care as those suffering with pneumonia, typhoid fever or any other disease or ailment.

Dr. Forbes Winslow was introduced and read a paper entitled "Progress of Lunacy."

In the absence of Dr. W. B. Fletcher, of Indianapolis; Frank P. Norbury, M. D., of Illinois; James R. Cocke, M. D., of Boston; Prof. Charles H. Hughes, M. D., of St. Louis, and W. F. Drewry, M. D., of Virginia, their several papers were read by title.

Mr. Clark Bell read the paper of G. E. Shuttleworth, M. D., of Richmond, England, entitled "Legal Responsibility in Idiotic Feeble-Minded Persons."

Albert Bach, Esq., Vice-President Medico-Legal Society, and one of the Secretaries of the Congress, read a paper entitled "Necessity of Amendments of the Laws of New York Appertaining to Commitments of the Insane."



ALBERT BAEN, ESQ.,
Secretary Medico-Legal Congress.

The paper of Albert Bach, Esq., gave rise to an animated discussion in which Dr. J. T. Madden, Dr. Winslow, Dr. E. C. Mann, Judge Palmer, Dr. Pierson, Dr. E. W. Lamoureux and others took part.

Dr. Madden suggested that to a Lunacy Commission be given judicial power to determine and act accordingly in all cases where individuals are supposed to be insane.

Dr. Edward C. Mann, of New York, associate member Societe Medico Psychologique, of Paris, said:

"I desire, at first, to commend in the highest terms the action of Hon. Clark Bell, the President of the Congress, in taking the initiative for the protection of society, by showing not only the Medico-Legal Society, but the public as well, the necessity of amending the present law of New York as it relates to the committment of the insane. We meet with the preponderance of nervous diseases in the refined and cultivated classes, where, by premature and stimulating processes of education, there has been forced an elaboration of brain structure, hastening the functional activity of the brain, with no due regard to the law of evolutionary precedence. Normal growth and development will give us healthy mind, while a structurally degraded centric nervous system, or an altered quality of blood and secondary disturbance of nerve function will antagonize healthy manifestation. If we have want of sleep, a defective generation of nerve-force, an unstable condition of the nerve centers, an incomplete development of any part concerned in mental action, all of which are causes of insanity, we cannot expect healthy mental function. Alcohol and opium are to-day responsible for much deterioration of brain. Dipsomania and the morphine habit are on the increase among Americans, and an increasing inherited disposition to the different nemoses. The condition known as cerebral hyperæmia, an increase in the quantity of the blood within the capillaries, or rather, one form of it, of vaso-motor origin, resulting from overwork and mental strain, is greatly on the increase. I desire to strongly deprecate the ease with which a delicate, refined woman, with an overwrought nervous system, on the borderland of insanity, might be hurried to an asylum; or, a business man, his brain being temporarily affected by the great excitements and competition in business, rushed to an asylum for the insane by some incompetent examining physician, ignorant of the curability of insanity by the home treatment, there to remain perhaps for years, for want of that special treatment which is impossible in the congregate plan of treatment pursued at most asylums. While I cannot agree with Mr. Bach in all his conclusions, yet I regard the paper as a very valuable one, and I desire to place stress upon the point that it was due to Mr. Clark Bell and his unvarying efforts in behalf of sick men and women who through disease of the body affecting the mind by deranging its functions, had to change their environment in order to be cured of a mental disease, that the public has been shown that it was not necessary to commit such persons to insane asylums hastily and secretly, when other and milder measures of treatment would cure such person much more quickly and more permanently. To the Hon. Clark Bell the society owes a debt of gratitude for his labors in

their behalf to amend our present defective laws relating to the commitment of the insane."



Judge A. L. Palmer, late of the Supreme Court of New Brunswick, took part in the discussion, saying: "I have been so much impressed by the very valuable paper read by Mr. Bach that I thought I would say a few words on the subject, coming, as I do, from Canada. I have been impressed by the objections he takes to the law of New York. I am surprised that that should be the law of this great State. It is probably true that no one is confined in a lunatic asylum in New York illegally, but that is not the point of Mr. Bach's paper. The point is that every person in New York is in danger of being imprisoned. The law ought not to expose the citizens of New York to so great a calamity.

"The imprisonment, it appears to me, of lunatics can only be justified on two grounds. One to preserve the community from injury and the other, perhaps the more important one, is the care the community ought to take of the lunatic himself, to take care that he inflicts no injury on himself and that everything is done to improve his condition. In the Province I come from it is only dangerous lunatics that can be put in confinement. The harmless lunatics are left to the care of the people among whom they live."

Mr. Albert Bach in closing the debate, said:

Mr. Chairman:—I have listened and jotted down some of the remarks by those who have commented on my paper, and I wish

it understood that I do not take comment amiss—I rather ask for it.

Dr. Winslow asked: What would you do with a man found on the street afflicted with suicidal mania, with a bottle of laudanum in his pocket? I would ask him, what he would do with such a man who had a bottle of poison raised to his lips? He would simply grab him by the throat and call for a policeman—that is, of course, if a man has a suicidal mania, and you know he is walking around intent upon killing himself one way or another. He is a dangerous person, and his insanity may at any time change into a homicidal mania, and he should be incarcerated.

I will now refer to Dr. Pierson's remark, as to some parts of this country not having police protection. I know of no part but the wilds of the West where there is no police protection in the shape of a constable, but if there should not be any police protection, any man can seize a would-be suicide making his attempt in public, take him and carry him off.

There has been a remark made that a judge is incompetent; that the judge must be aided by the alienist. What I object to is not the profession of medicine certifying a man to be a lunatic. I believe an expert alienist is best fitted to pass an opinion in latent insanity, although in obvious cases I think a layman is as good a judge of insanity as anyone. The point I make is, that no man should be deprived of his liberty without giving him a hearing in his defense. It may be urged that the preliminary commitment is only for five days, but you can be kept there for more than five days unless it is certified that you are sane. The fact is that you may be confined for five days merely because the law says that a man of three years' standing in his profession can come forward and state that you are insane.

Now, so far as the doctors not wishing to jeopardize their reputation by false certifications. I know there are schemers in my profession as well as in all other professions, and the danger and risk is great when it is considered and remembered that the manifestations on which insanity may be predicated are so numerous and so much to the liking of those who would take advantage of the law.

It also has been remarked that in order to establish that a person has been wrongfully committed you will have to prove a conspiracy between the judge, the doctor, and the superintendent of the asylum, and such proof would be difficult. I answer that there is no need to prove conspiracy; the fact is, judges, as a rule, bow in humble submission to the opinion of the physicians in such matters, and therein lies the danger to the citizen.

Clark Bell, Esq., read a paper entitled "Mechanical Restraint of the Insane."

The Congress then passed to the

SECOND DEPARTMENT,

the President, Clark Bell, Esq., in the chair, subject, "Inebriety," who introduced T. D. Crothers, M. D., of Hartford, Conn., as Chairman, and the following Vice-Chairmen:

D. L. BROWER, M. D., Chicago, Ill.
E. T. BURK, M. D., 140 Fore Greene Place, B'klyn.
W. H. HENCHMAN, M. D., Ann Arbor, Mich.
E. C. MANN, M. D., New York.
L. D. MASON, M. D., Brooklyn.
R. OSGOOD MASON, New York.
ISAAC N. QUIMBY, M. D., Jersey City, N. J.

Dr. Crothers, on taking the chair, made an address.

Short addresses were made by Forbes Winslow, M. D.; I. N. Quimby, M. D.; Mary Louise Thomas, of New York.

In the absence of Hon. Noah Davis, Chairman assigned to preside over the reading of papers, and their discussion, of this department, Hon. Rastus S. Ransom, Vice-President of the Congress, was called to the chair.

The following papers were then read:



NORMAN KERR, M. D.,
Vice-President Medico-Legal Congress.

Norman Kerr, M. D., London, "What Shall We Do with the Alcoholic Inebriate, Apparently Insane?"

Lewis D. Mason, M. D., Brooklyn, N. Y., "Questions of Responsibility in Alcoholic Coma, Found on the Street."

Isaac N. Quimby, M. D., Jersey City, N. J., "Alcoholic Anæsthesia a Factor in Crime."

The hour of adjournment having arrived before the conclusion of the work of the department, the Congress adjourned to 10 A. M. of Sept. 5.

SECOND DAY.

Thursday, Sept. 5—Morning Session, 10 A. M.

The President in the chair. In the absence of Judge Rastus S. Ransom, Hon. George H. Yeaman, an ex-President of the Medico-Legal Society of New York, was called to the chair and made an address, and the closing paper of the second department was read by the Chairman of the Department, T. D. Crothers, M. D., entitled "Legal Responsibility in Inebriety."

The Congress passed to the third department, on "Sociology and Criminology," the President, Clark Bell, Esq., in the chair, who introduced Hon. Moritz Ellinger, Chairman, and the following Vice-Chairmen.

DANIEL R. BROWER, M. D., Chicago, Ill.

WM. LEE HOWARD, M. D., Baltimore, Md.

Hon. RASTUS S. RANSOM, New York.

GUSTAVE BOEHM, Esq., New York.

F. L. HOFFMAN, Esq., Newark, N. J.

DR. L. FORBES WINSLOW, London.

Hon. Moritz Ellinger, in taking the chair, made an address:

Sociology and Criminology are sciences which have been placed in the front rank in this century of ours as the most comprehensive of all sciences, touching as they do the most vital interests of government and the progress of the social structure. Man in former years was only studied in his relations to the nearest surroundings, the family and community in which he had his domicile and the privileges which were accorded to him according to his rank, his station and occupation. It was due to scientists like Herbert Spencer, Comte, Cesare Lombroso, that the development of society was made the subject of study and the principles determining its progress defined with scientific accuracy and which must be adhered to in order to conform with the unalterable laws which reign in the psychical as well as in the physical world. As I will read a paper on this subject

I will not detain the Congress with any further remarks on this subject, but will introduce Dr. Crothers who is to make a few brief remarks.

Clark Bell, Esq., President, then made an address :

SOCIOLOGY AND CRIMINOLOGY.

By Clark Bell, President Medico-Legal Congress.

That public interest in sociological studies is on the increase in our day, cannot be questioned. We may recognize its hold on popular thought by remarking that in the present Congress more papers are contributed to the department of sociology and criminology than any other. This is not, in my opinion, the result of chance, but is due to the increasing interest manifested in the world of thought in this domain of scientific investigation. Especial stimulus has been given to the study of criminology by the writings of Lombroso and others of his school. Enrico Ferri has touched it with his brilliant lance. Herman Kornfeld, Morris Benedikt, Kraft Ebing, Morel, Le Grand du Sanlle, Brierre du Boismont and Prosper Depine on the continent; Havelock Ellis, W. W. Ireland, Pritchard, Thomson, Dr. Nicholson and W. Douglas Morrison in Great Britain; and many other writers of distinction have illumined its importance. The International Congress of Penal Law attracted many great names from all the world to this subject.

It is not crime alone that we now study, with methods of punishment, sentences, prisons and their management, including discipline and corporal punishment in prisons, all the offenses and the modifications in penal statutes; but we are coming to study more the criminal himself, his characteristics, degeneracy, heredity, and, above all, environment. Are punishments for crime, as defined in our penal statutes, really deterrent? Has the State the moral right to inflict

punishment in any retaliatory spirit, as is now oftentimes the basis of penal statutes? And if experience demonstrates that excessive or prescribed forms of punishment do not act in fact as a deterrent in diminishing crime, should we not consider with greater care what modifications are proper to reach the end desired, namely, a perceptible decrease in the volume of crime, as well as the protection of society?

The lesson of the repeal of the long list of capital crimes in Great Britain since the day when sheep-stealing was a capital offense, must not be lost. Severity of punishment does not appear to operate as a deterrent. It seems to be true that the fear of the scaffold rarely deters the murderer. Crime seems in the ocean of humanity to be the sum of social causes which, like great rivers, flow toward and empty into it. Its Amazon is no doubt alcoholic stimulants, which, more than all other causes combined, constitute the inevitable, terrible, irresistible scourge of the race. In its currents there appear as tides and eddies insanity, epilepsy and physical degeneracy; not always in the parent, but more certain in the offspring. Its movements run, like the blood of man, into the veins and lives of children's children, with a taint as terrible as that of leprosy or syphilis. The burdens to the State for the care of the insane, in the rural districts or counties, notably in an agricultural county like Yates County, New York, are in this year of grace actually greater than the cost of the schools, and almost equal to the entire other expense of the State government, including the canals. When shall we have the courage to look this awful question squarely in the face and decrease the volume of crime? Not by penal laws for the punishment of the criminal (often the victim of his birth and environment) but by striking at and repressing the cause.

The recognized defects in our penal laws, especially in Great Britain, the United States and many of the continental states, may be summarized as follows: (1) The principle of

equality of sentences as to their duration, as now existing, is fundamentally erroneous and vicious. (2) It is wrong to make arbitrary punishments for the same offenses against all offenders alike. (3) Criminal laws must be so framed as to meet the social conditions of criminal classes. Laws based upon the social condition of men in the ordinary walks of life fail. They should rather be aimed at the social life and condition of the criminal classes. I quite agree with W. Douglas Morrison of the Wandsworth prison in England, when he asserts that "the criminal is a product of anomalous biological conditions, as well as adverse circumstances." (4) Some plan should be devised in the administration of punishments, under which the principle of determinate sentences should be applicable to the individual condition of the offender. The same offense should not receive the same punishment in all cases, as, for example, when committed by an adult, or a child, or a youthful offender, or a woman. (5) We must consider whether Bentham was right in insisting that we should, in adjusting our methods of punishment, look as much to the nature and condition of the offender as to the nature of the offense. Much of the failure of our present system as a protection to society is unquestionably due to our ignoring this fundamental law in our present penal statutes and punishment of criminals. Mr. Morrison lays down an important principle when he claims that we should place our prisons on the same basis as the penal laws; that prisons should reach the causes and conditions which produce the criminal, and the penal statutes be placed on the same plane.

T. D. Crothers, M. D., Vice-President of the Congress, made an address.

In the absence of Judge Rastus S. Ransom, who was assigned as Chairman to preside over the reading of papers and their discussion, Irving C. Rosse, M. D., of Washington, D. C., was called to the chair and made a short address. The following papers were then read: By Forbes Winslow, M. D., London, "Suicide Considered as

a Mental Epidemic." Mr. Albert Bach read the paper by Gustave Boehm, Esq., New York City, "Suicide and the Right to Commit It." Discussion was opened by Albert Bach, Esq., of both papers, the Chairman allowing the discussion of both papers on this subject together.

Mr. Albert Bach said :

Mr. Chairman, Ladies and Gentlemen:—The question of the right of a human being to end his own terrestrial life has been frequently mooted. There is opened up, by the mere putting of the question, a broad field of argument—and there have been and are able advocates of both the affirmative and negative sides of the propositions involved. In behalf of the negative side, it has been asserted that God's given life is too sacred to be terminated by the wilful act of man; that the duty we owe not only to our dependents, but to our fellow beings in general is too imperative to be shirked by the so-called cowardly act of suicide; that the commandment "Thou shalt not kill" applies as well to the act of self-destruction, as to the wrongful slaying of another; that the welfare of humanity at large demands that the continuance of human life should in no way be interfered with by man, unless under sanction of law; and that our laws not only neither permit self-killing nor recognize any justification therefor, but specifically prohibit it, and provide a punishment for attempted suicide. Those holding the affirmative side of the question contend that under certain circumstances and conditions, suicide is justifiable, and in support of their contention they paint and present to us pictures of human suffering so agonizing, so irretrievably hopeless and irremediable in the light of experience, as to make many waver in their opinion that earthly pains and woes should be forever evidenced, no matter howsoever excruciating, rather than be ended by suicide. The advocates of self killing cite history to prove that the act in the past and among certain people at present has been considered the only honorable, manly and respectable way to meet defeat or disgrace, and they ridicule those who enact laws providing punishment for attempted suicide, and scoff at such laws as stupid and ineffectual. There is not sufficient time afforded me to make a comprehensive statement of my views on this subject. I will merely say that I deem our statute law appertaining to attempted suicide absurd and farcical, for the reason that it will not deter any one from attempting suicide, and furthermore it induces would-be suicides to see to it that their efforts in that direction are entirely successful.

Personally I can conceive of conditions that would justify a person in ending his life, and in some instances I am convinced that such self-inflicted death would be beneficial to the community at large. There is considerable cant and hypocrisy connected with the discussion of this subject, but before a scientific body such as this is, we should express our views fearlessly. I admit that the advocacy of advanced and progressive doctrine before weak-minded persons may do harm, but feel that I will not particularly shock any one here present by stating that I believe that there are cases in which suicide is morally justifiable, and that there are also cases in which the ending of human life by physicians is not only morally right, but an act of humanity. I refer to cases of absolutely incurable, fatal and agonizing disease or condition, where death is certain and necessarily attended by excruciating pain, when it is the wish of the victim that a deadly drug should be administered to end his life and terminate his irremediable suffering. And I may add that I know that physicians do so end life, although they term it "producing euthanasia." If those very physicians were to use English words rather than their Greek equivalent, we would find them producing an easy, painless death, instead of euthanasia.

DR. ISAAC N. QUIMBY.—I must disagree entirely with the learned jurist in his statements regarding the right of any human being under any circumstances to take his own life—and there are no culmination of circumstances that would justify a physician in taking the life of his patient. The agony of the sufferer, or even his consent, in no wise alters the case; neither does the certain fatality of the disease change the matter. Human life is sacred, and no law human or divine can be found that would justify a physician terminating the life of a patient, and I must protest and dissent in behalf of my profession from the statements made by Mr. Bach.

The physician who errs in a fatal case or where agonizing pain is endured by the sufferer, must not do so to end life, and he would be amenable both to the law of God and the State if he attempted to do so. No self-respecting physician would even consider such a murderous proposition,

Judge Abram H. Daily: "I ask Dr. Quimby this question: Is it right to prolong the agony of a patient if the physician knows positively that death is inevitable in a short time?"

Dr. Isaac N. Quimby (with great emphasis): "To the bitter end. A

physician has no right to terminate the life of a patient, even when to prolong that life is to cause the most agonizing tortures."

Dr. Forbes Winslow: "I quite agree with Dr. Quimby in the views he expresses as to such a case."

In the absence of the authors the following papers were read by title:

Daniel R. Brower, M. D., 597 Jackson Boulevard, Chicago, Ill., "Criminality a Disease, Its Ithiology and Treatment."

Prof. Elliott Coues, Washington, D. C., "The Megalomania of H. P. Blavatsky, a Study of Criminal Allenism."

The following papers were then read by the authors:

F. L. Hoffman, Newark, N. J., "Medico-Legal Aspects of Child Insurance."

William Lee Howard, M. D., Baltimore, Md., "Sexual Perversion and Crime."

Moritz Ellinger, Esq., "Sociology and Criminology, Growths of Modern Civilization."

The remaining papers of this department stood over until the last day and the Congress passed to the

FOURTH DEPARTMENT.

"Experimental Psychology," Prof. W. X. Sudduth, of Chicago, Chairman, and the following Vice-Chairmen:

CLARK BELL, Esq., New York.

WILLIAM LEE HOWARD, M. D., Baltimore, Md.

T. D. CROTHERS, M. D., Connecticut.

JAMES R. COCKE, M. D., Boston.

HENRY HULST, M. D., Michigan.

The President, Clark Bell, Esq., in the chair, who, in the absence of Prof. Sudduth, introduced ex-Judge A. L. Palmer, of the Supreme Bench of New Brunswick, who, in taking the chair, made a short address:

Experimental Psychology.

"Mr. President, Ladies and Gentlemen: I esteem it a high honor to be selected to preside over this department in the absence of Prof. W. Xavier Sudduth, who is prevented from attending by circumstances beyond his control.

"This department of psychological medicine is one which all jurists are coming to the conclusion demands more examination in the future than we have been able, or even willing, to give it in the past.

The relation of hypnotism to crime is forced upon judicial atten-

tion, and we must consider it and be in a position to pass upon the questions it presents, in accordance with the well settled principles of law.

"When Professor Sidgwick, at Cambridge, at the head of the English Society of Psychical Research, is willing to assert, as the result of a long series of experiments conducted by that body, his belief in telepathy, as he defines it, we may differ with in his views and criticise the method of investigation in and by which he has made up his opinion, but we cannot avoid facing the issues presented, or escape considering the weight and force of the evidence on which it is based

"I cannot claim to be even a student of the subject of the experimental side of psychical research, I have not been able to bring my mind to admit what is claimed by the more advanced students of the science, but I am of those who believe truth has nothing to fear from the investigations now proceeding in various parts of the world in this domain of scientific investigation, and I trust that the papers presented here will aid in the elucidation of questions of general public interest and concern."

William Lee Howard, M. D., of Baltimore, being introduced, made an address:

SOCIOLOGY AND CRIMINOLOGY.

Remarks by Dr. William Lee Howard, Baltimore, Md.

The object of criminal law and penal administration is the protection of society. At the present time there appears to be something lacking either in those laws or their application. I do not believe that our present administration of penal laws are satisfactory; at least it has caused no diminution in the number of crimes or criminals. I think that the large number of criminals which now confront us daily in the police courts and newspapers will be greatly reduced when psychology steps in and eliminates the diseased from the purely vicious. There are many minor crimes committed that are the result of hysteria and psychic conditions, and of which the subject has but faint, if any, idea. If these cases can be isolated from their environment, treated as neurotics, and the suggestive method followed, many would become useful citizens. For the persons born with criminal instincts, the complete congenital criminal, nothing can be done except to keep them at some regular occupation in confinement and isolated from their fellow men.

T. D. Crothers, M. D., of Hartford, Conn., made a short address.

Judge Abram H. Dailey, of Brooklyn, was introduced and read a paper entitled "The Hypnotic Power—What Is It?"

Clark Bell, Esq., was introduced and made a short address.

Mr. Clark Bell said :

"The domain of investigation which the Psychological Section of the Medico-Legal Society had undertaken in this department had been subdivided by its officers into five branches or subdivisions, viz :

"1. Mental suggestion, and especially of physicians, as to experiments in practice of hypnotic suggestion, or the therapeutic value of hypnosis.

"2. Experimental Psychology.

"3. Telepathy.

"4. Clairvoyance.

"5. Facts within the domain of psychical research.

"The Section is interested in all which pertains to the wide domain of psychology; in the rapidly growing facilities which the colleges and universities are offering to students in experimental work, as well as in that vast region of psychological phenomena, which, with its perplexing and increasing complications, demands the strictest and most scientific investigation.

"It is intended to embrace special study in the departments of animal magnetism, hypnotism, telepathy and clairvoyance, and also of the so-called apparitions, and other claims of respectable modern Spiritualism.

"It is proposed to conduct these inquiries and investigations with candor and fairness, upon strictly scientific lines, and to reach, in so far as possible, a valuable and enlightening collection of facts incident to these phenomena, from which important deductions may be made.

"It could not be expected in this Congress to make any exhaustive presentation of all, or, indeed, any of these topics, but to awaken interest in the work undertaken by this Section for the purpose of enlisting the attention and co-operation of all students in all countries who are investigating these branches. Steps will shortly be taken by which all persons who desire to unite with the Section in its work can do so at the nominal annual subscription of \$1.50, entitling them to the Medico-Legal Journal free, without being at the expense of joining the parent society when that course was preferred."

Hon. Thaddeus B. Wakeman, of New York, was called to the chair and made a short address and presided over the reading of papers in this department and their discussion.

LAW AND CRIME.

HON. THADDEUS B. WAKEMAN OF THE BAR OF NEW YORK.

ADDRESS ON TAKING THE CHAIR TO PRESIDE OVER THE SECTION :

MEDICO-LEGAL CONGRESS, SEPTEMBER 5, 1895.

My thanks are due for this honor, most unexpected by me. I am greatly pleased to have a part even short and temporary in the important proceedings and discussions of this Congress, and especially in those relating to the subjects before this Section to-day. What should be the voice of the medical and legal professions in regard to the extension of general criminal laws over the conduct of individuals not directly injurious to the community? This question underlies the remarkable paper that has just been read in favor of the abolition of all laws punishing attempts at suicide as crimes. It also underlies the subjects represented on the programme to-day relating to sexual perversions and abuses, and the almost incredible idiosyncracies and abnormalities that precede the actual injuries to others from vice and insanity.

The papers so far read seem to me to sustain the vision upon this subject which we have inherited from Jefferson and the more liberal of the founders of our Government and institutions. To the effect, that a patient endurance of many of the abuses, losses and inconveniences resulting from individual liberty is the condition of maintaining the priceless treasure of liberty itself. Under this view it would seem that the great learned professions here so brilliantly represented may by the drift of thought if not by positive resolution, suggest to our legislators to limit "crimes" to acts of direct and serious injury to others, and to aid us in bringing to bear scientific public education, moral persuasion and positive inducements as the true and healthy preventives, instead of punishment, or even the fear of punishment. Hoping that you will pardon this thought which our proceedings had impressed upon me, we will resume the order of the day.

A paper by Prof. W. Xavier Sudduth, late Dean of the University of Minnesota, was read, in the absence of the author, by the President, entitled "Hypnotism and Crime."

The following papers were read by the authors:

Clark Bell, Esq., New York City, "Hypnotism in the Courts of Law."

Prof. Edwin Checkley, New York, "Telepathy."

Sophia McClelland, "Psycho-Psychological Mechanism."

In the absence of the author the following paper was read by title:

Elwood Wilson, Esq., "Hypnotism in the German Courts—The Czynski Case."

And the President read a paper by

William E. Drewry, M. D., Petersburg, Va, on 'Duplex Personality.'

The remaining papers of this department were ordered passed until the closing day.

The Congress then took a recess until 2:30 P. M.

THURSDAY.

Second Day, Sept. 5—Afternoon Session, 2 P. M.

FIFTH DEPARTMENT.

"Medico-Legal Surgery"—Granville P. Conn, M. D., Chairman, and the following committee:

CLARK BELL, Esq., New York.

Hon. C. H. BLACKBURN, Cincinnati, O.

Judge ABRAM H. DAILEY, Brooklyn.

Hon. GEORGE W. FELLOWS, New Hampshire.

W. C. HOWELL, Esq., Iowa.

Judge W. D. HARDEN, Georgia.

Judge L. A. EMERY, Maine.

Judge W. A. FRANCIS, Montana.

Judge CALVIN E. PRATT, Brooklyn.

Hon. GEORGE R. PECK, Chicago.

M. CAVANA, M. D., Oneida, N. Y.

F. H. CALDWELL, M. D., Florida.

CHARLES K. COLE, M. D., Montana.

F. B. DOWNS, M. D., Connecticut.

B. F. EADS, M. D., Texas.

Prof. A. P. GRINNELL, Vermont.

R. S. HARNDEN, M. D., New York.

GEORGE GOODFELLOW, M. D., Arizona.

C. B. KIBLER, M. D., Pennsylvania.

W. B. OUTTEN, M. D., Missouri.

The President, Clark Bell, Esq., in the chair. Mr. Bell read a letter from Dr. Granville P. Conn, Chairman of the department, explaining that his engagements in court on an important trial kept him from the Congress. The Chair then introduced Dr. C. B. Kibler, Surgeon of the Erie Railway System, of Corry, Pa., ex President Association Erie Railway Surgeons, to preside over the department, who made a short address:

Addresses were made by Surgeon H. W. Mitchell, M. D., Vice-President of the Congress; Geo. Chaffee, M. D., ex President of the New York State Association of Railway Surgeons, and Treasurer of the Congress. Clark Bell, Esq.

Judge A. L. Palmer, who had been announced to preside over the reading of papers in this department, and their discussion, took the chair and made an address:

Judge Palmer said:

"Mr. Chairman, Ladies and Gentlemen: My own disappointment at not meeting Chief Surgeon Wm. B. Outten, of the Missouri Pacific Railway System, who was announced to preside with me over this department, is greater than your own. In my long experience upon the bench of the Supreme Court of the Province of New Brunswick I have taken a deep interest in medical jurisprudence, and for some years have been an active member and an officer of the Medico-Legal Society, thanks to the Hon. Clark Bell, who has been chosen as President of this Congress.

"We feel in the Dominion of Canada a deep interest in all that takes place of a public nature in the United States, and I feel sure that this Congress will result in a great good to the science of forensic medicine.

"Of the many departments of medical jurisprudence that are closely related to the courts in the administration of justice there is hardly one of greater importance than that of medico-legal surgery, and especially of what has latterly been called railway surgery, covering that large and important field so pregnant of litigation in what is known as damage cases among judges and lawyers.

"The railway upon this continent has been one of the most enormous factors in its civilization and development. In the Dominion of Canada, as in the United States, it is the most prominent, as well as most powerful of all corporate bodies, and comes nearer and closer to the people than any other element of progress.

"It is the burden bearer of the products, as well as the people.

"The questions arising in railway surgery are two-fold, legal and medical.

"The principles of law have to be applied in questions which constantly arise in the operation upon the American continent of a system of railway almost equal in mileage and work to that of all the continent of Europe combined.

"Railway surgery is, on both its legal and medical sides, comparatively in its infancy, and I know of no more interesting or important subject than that undertaken by the section of medico-legal surgery which will be outlined to you by the President of this Congress, who, if I am correctly informed, organized it for the purpose of uniting the labors of jurists and railway surgeons in a combined effort to promote, investigate and study the science of medico-legal surgery, from its legal as well as its surgical standpoint."

The following papers were then read by their authors:

H. W. Mitchell, M. D., "Shock in Railway Surgery."

George Chaffee, M. D., "Is the Railway Hospital an Economy?"

The remaining papers of this department in the absence of the authors, were read by title—as per programme.

AFTERNOON SESSION—SEPT. 5, 3 P. M.

The Congress then passed to the Sixth Department.

"Medical Jurisprudence and Miscellaneous"—Judge A. H. DAILEY, Chairman, and the following Vice-Chairmen :

CLARK BELL, Esq., N. Y., New York.

ALBERT BACH, Esq., New York.

H. W. MITCHELL, M. D., New York.

Prof. ISAAC LEWIS PEET, New York.

Prof. R. O. DOREMUS, New York.

MORITZ ELLINGER, Esq., New York.

Hon. JACOB F. MILLER, New York.

S. B. W. M'LEOD, M. D., New York.

Judge H. M. SOMERVILLE, Alabama.

F. B. DOWNS, M. D., Connecticut.

The President, Clark Bell, Esq., in the chair, who introduced ex-Judge Abram H. Dailey, Chairman of the department, who made an address.

MEDICAL JURISPRUDENCE AND THE MEDICO LEGAL SOCIETY.

By Clark Bell, Esq., President of the Congress.

Address delivered at the opening of the Section of Medical Jurisprudence, at the Medico-Legal Congress, September, 1895.

The eminent Alfred Swayne Taylor, the greatest English Medical authority on the subject, defined Medical Jurisprudence, as follows :

"That science which teaches the application of every branch of Medical knowledge ; hence its limits, are on the one hand, the requirements of the Law, and on the other, the whole range of Medicine.

Anatomy, physiology, medicine, surgery, chemistry, physics, and botany, lend their aid, as necessity arises ; and in some cases, all of these branches of Science are required, to enable a Court of Law to arrive at a proper conclusion on a contested question affecting life or property."

The most eminent Medical man upon this continent of his era, in Forensic Medicine must be conceded to be T. Rameyn Beck, whose labors, more than any of his confreres, stimulated, systematized and advanced the science.

Beck's Medical Jurisprudence, was in my student days, on the shelf of every prominent Lawyer's library as the leading text book, followed later by those of Prof. Elwell, Deane and others. His first work was published in 1823 ; he died in 1855.

Two years before his death, in addressing the Legislature of this State, at the Capitol at Albany, in favor of establishing a State University, Dr. Beck said :—

"We require the appointment under public authority, of a Professorship of Medical Jurisprudence, or Forensic Medicine.

"It is not possible to do full justice to this subject in Medical colleges. We teach them what is known; we want a person or persons who shall ascertain, if possible, the unknown; and great as have been the discoveries in late years, in this science, still the cunning of the murderer has frequently outrun them.

"Why should not men, duly appointed to such an office, who by their researches, would be far in advance of those who by secret, and in some cases almost unknown means, prevent detection in the commission of crime?

"There is a person now living (Orfila), the certainty of whose knowledge on the power of poisons is such, that he is not only called upon to examine cases in every part of France, but not long since was summoned to Belgium in one, which at the time attracted the attention of all Europe.

"I hold that there should be two or three persons of this character appointed and paid by the Government, to perform this important duty."

Let me here repeat in this presence, those remarkable words, before this Congress, more than 43 years after their utterance. It is the voice from the closing days of the first half of our century, to the closing years of the last half.

There is no University of France, of Germany, of Austria, of Italy, of Russia, Spain, Belgium or indeed of any country upon the continent, without its Chair of Medical Jurisprudence.

The Medico-Legal Society, supplemented the labors of Dr. T. Romeyn Beck upon the American Continent.

It made his work, their starting point, and it has advanced from 1871 for the past quarter of a century, this Science, by slow but sure and stately steps, to the splendid fruition of its crowning work, in this Congress.

Its influence has been great, steadfast and sure upon this continent; it has extended into all parts of the world, and the student or Historian of the future, must credit the Medico-Legal Society, for the general interest aroused throughout the civilized world, in this science, of which this Congress is a splendid result.

Short addresses were made by Hubbard W. Mitchell, M. D., and Albert Bach, Esq.

Judge Calvin E. Pratt, who had consented to preside over the reading of the papers of this department, being still unable to be present on account of illness, the President called Hon. Rastus S. Ransom to preside, who took the chair and made a short address.

In the absence of their authors, the following papers were read by title:

Mary Weeks Burnett, M. D., Chicago, Ill., "The Relation of Occult Medicine to Law."

Austin Abbott, LL. D., "Necessity of Medical Supervision for Criminal Arrests."

J. N. Hall, M. D., Denver, Col., "Gunshot Wounds."

J. C. MacGuire, M. D., "Physician's Relation to His Client, and Obligations as a Citizen of the State."

Jennie Stanton Wilcox, M. D., Saratoga Springs, N. Y., "Woman in the Legal Profession, and Its Relation to Medical Jurisprudence."

Hon. C. H. Blackburn, Cincinnati, O., "Where Are We?"

Irving C. Rosse, M. D., Washington, D. C., "Some Anomalies of Justice in the District of Columbia."

The following papers were then read by their authors:

Ferd C. Valentine, M. D., "When Should Gonorrhœal Patient Be Allowed to Marry."

Eliza Archard Conner, New York, "Woman in the Light of Law and Medicine."

Mary Louise Thomas spoke on the discussion of this paper.

Kate E. Hogan, LL. D., Counsellor-at-Law, New York, "The Legal Evolution of Woman."

Sophia McClelland, Westchester, N. Y., "Credible Witnesses and Circumstantial Evidence."

Matilda Morehouse, "Vaccination and Some of Its Evils," which was discussed by C. B. Morehouse, M. D., in support of the paper, and by R. Forsythe Jones and Clark Bell, Esq., in opposition.

The President read a paper by Gustav Boehm, Esq., in his absence, entitled "The Brutality of Capital Punishment," which occasioned discussion. Dr. Isaac N. Quimby, of New Jersey, said:

"I think a great deal can be said as to the brutality of capital punishment. It seems to me there are points in the paper that are well taken. There are many gases that could be substituted that would do away with the inhumanity of the present form of execution. For instance, it would be possible to use chloroform, put in the form of such a spray that the victim would be killed without any of those contortions or horrible incidents connected with the present executions, but I am of the opinion that this is neither the time nor the place to discuss this question."

Mr. Clark Bell said: "Capital punishment must necessarily appear brutal to persons of peculiarly sensitive temperaments. Many years ago the Medico-Legal Society addressed itself to some form of capital punishment that would remove the horrible brutalities depicted by M. Boehm's paper, occurring at public executions on the scaffold. It was due to the long-continued efforts of that body, and to the action of a committee of which the Hon. Eldridge T. Gerry, a life member of the Medico-Legal Society, was Chairman, that the present substitution of electricity for hanging was obtained from the Legislature, and I have no hesitation in saying that it is absolutely devoid of brutality. The suggestions made by Dr. Quimby were carefully considered by this Society, but no form of death was found to be so instantaneous or so painless as the existing method of electrocution. Recent demonstrations have shown that the present mode of execution is absolutely painless."

The remainder of the papers in this department were passed and stood over until the closing session.

The Congress then adjourned to Friday, at 10 A. M.

THIRD DAY.

Friday, Sept. 6—Morning Session, 10 A. M.

SEVENTH DEPARTMENT.

"Chemistry"—Prof. H. A. MOTT, Jr., Ph. D., LL. D., Chairman, assisted by the following Vice-Chairmen:

Prof. R. OGDEN DOREMUS, New York.

Prof. THOS. G. WORMLEY, M. D., Philadelphia.

Prof. VICTOR C. VAUGHAN, Michigan.

Prof. CHARLES A. DOREMUS, M. D., New York.

GEORGE B. MILLER, M. D., Philadelphia.

The President, Clark Bell, in the chair, introduced Prof. H. A. Mott, Jr., as Chairman of the department, who, on taking the chair, made a short address, and the President introduced Prof. R. Ogden Doremus, ex-President of the Medico-Legal Society, and as a high authority of toxicology, to preside over the reading of papers and their discussion in this department.

Prof. R. Ogden Doremus took the chair and, after a few remarks, read a paper on "The Adulteration of Milk."

The following paper was read by title, in the absence of the author:

Prof. Peter Townsend Austin, Brooklyn, N. Y., "Relation Between Chemical Constitution and Physiological action."

The following papers were read by the authors:

Prof. H. A. Mott, New York, "Somatic Death by Poison."

Prof. Charles A. Doremus, M. D., New York, "Two Remarkable Cases of Chronic Antimonial poisoning."

The last paper gave rise to a discussion participated in by Prof. R. Ogden Doremus and Dr. Isaac N. Quinby, of New Jersey, who criticised so much of the paper as reflected on the Rev. Dr. Geo. B. Vosburgh, who was acquitted of the charge on a trial by the verdict of a jury asserting his innocence, and who had been for many years since that trial in the ministry and sustained by his congregation and the community at large. Dr. Quinby said he felt that after so many years the bringing up of damaging statements was not proper in a scientific concourse.

In the absence of Prof. W. B. McVey, who had been called away, his paper entitled "The Chemical Importance of Ptomaines or Cadaveric Alkaloids in Medico-Legal Analysis," was read by the President.

The Congress then passed to the

EIGHTH DEPARTMENT.

"Microscopy."—Prof. M. C. White, M. D., of New Haven, Conn., the microscopist of the Medico-Legal Society, Chairman, and the following Vice-Chairmen:

Prof. MARSHALL D. EWELL, Chicago.

W. TRAVIS GIBB, M. D., New York.

HUBBARD W. MITCHELL, M. D., New York.

ROBERT H. REYBURN, M. D., Washington, D. C.

The President, Clark Bell, Esq., in the chair, introducing Prof. M. C. White, who, on taking the chair, made an address detailing the circumstances of the trial in which the controversy occurred which had suggested the inquiry announced on the programme, "Can parcels of arseni-

ous acid obtained from different sources, or from different manufactories, be distinguished, and by what means?"

Prof. R. Ogden Doremus said he recalled the trial to which Professor White had alluded, and stated that he had purchased ten different specimens of arsenic at different places in New York City where the same was sold by different manufacturers or from different makers, and that his careful experiments had demonstrated, under the microscope, such a marked difference in the crystals as unmistakably answered the inquiry in the affirmative.

Prof. Charles A. Doremus, who as assistant of his father had conducted the experiments, corroborated the view and statement of his father and produced the original crystals which had been used in the experiment for the inspection of the Congress which had been preserved.

Mr. Clark Bell: "Can photographs of these ten varieties of arsenic be now taken from the contents of these vials so as to show from the photograph or photo-engraving the difference claimed to exist between the different samples."

Prof. Charles A. Doremus: "Yes, certainly, and I will undertake to have them photographed for that purpose."

The Congress then passed to the

NINTH DEPARTMENT.

"Bacteriology."—Paul Gibier, M. D., Chairman, and the following Vice-Chairmen: Bettini Di Moise, M. D., Bacteriologist of the Medico-Legal Society; Prof. V. C. Vaughan, of Michigan.

The President, Clark Bell, Esq., in the chair, who introduced Dr. Paul Gibier, of the New York Pasteur Institute. He spoke upon the theme, "What May Be the Part of Bacteriology in Forensic Medicine?"

The chair stated that an unpublished paper by the same author on the subject of the "Toxine and Anti-Toxine of Tetanus," read before the Medico-Legal Society, would be read by title, to form a part of the transactions of this Congress, and a recess was taken until 2 o'clock P. M. to finish the work and devoted to the passed and unclassified papers contributed.

THIRD DAY.

Afternoon Session, 2 P. M.

The President called to the chair to preside over the papers not read, an their discussion, Vice-President Dr. L. Forbes Winslow.

President Clark Bell, in behalf of Moritz Ellinger, who was prevented by illness from being present, read a paper on "The Case of Czynski." This was followed by a paper read by Clark Bell on "Hypnotism in the Courts of Law."

The following paper was read by the President, in the absence of the author:

Elwood Wilson, Esq., "Hypnotism in the German Courts—the Czynski Case."

A discussion followed on the subject of hypnotism, participated in by William Lee Howard, M. D., of Baltimore, Md.

Dr. Forbes Winslow said that the popular belief that it was only persons of weak intellect who could be hypnotized was a fallacy. Persons

of strong will were equally liable to become the subject of hypnotic suggestion.

Dr. Grover, of Massachusetts, related a case where a young woman in New England, afflicted with tuberculosis, had been cured through repeated hypnotic "suggestions."

Dr. Hubbard W. Mitchell expressed some surprise at Dr. Grover's statement. "If that is true," he said, "the hypnotizer has a tremendous power, and its importance cannot be overestimated, but I am inclined to be skeptical. The Medico-Legal Society has for a long time been trying to find out what hypnotism really is."

The President, Clark Bell, Esq., closed the discussion:

The President then read the following papers in the absence of the authors:

P. C. Remondino, M. D., San Diego, Cal., "The Evolution of Theosophic Medicine and Its Present standing in the United States."

Gustave Boehm, Esq., New York City, "Prostitution—The Evil; The Cure; Legislation, Etc."

H. R. Storer, M. D., Newport, R. I., "Fraudulent Life Insurance and Its Relation to the Medical Examiner."

E. N. Buffett, M. D., Jersey City, N. J., "Is Death Painful?" also, "A Popular Medical Error to be Corrected by the Physician."

Dr. Havelock Ellis, London, "Sexual Inversion, with Analysis of Thirty-six New Cases."

Discussion opened by William Lee Howard, M. D., Baltimore.

The paper of Dr. G. E. Shuttleworth, Richmond, England, which had been received by steamer that morning, was then read by the President.

The paper by James Gordon Battle, Esq., Assistant District Attorney, entitled "Indeterminate Sentences as Affecting Congenital Criminals," was read by title, at his request, illness preventing his attendance.

Mr. Albert Bach offered the following resolution:

"Resolved that the thanks of the officers and members of the Medico-Legal Congress now in session be extended to the public press of this city for the efficient and willing assistance it has yielded in disseminating the work of the Congress and in awakening public interest in the science of forensic medicine; and be it further

"Resolved that the Congress express its particular gratification with the full publication by the New York Times of many of the papers read at its meetings."

President Clark Bell said:

"I rise with great pleasure to second the resolution offered by Mr. Bach. Whatever work scientific men may do, if it only extends to their own horizon, it does not do much good. No man can overestimate the good that has been done by the press of this city in laying before the public the valuable papers that have been presented to this Congress. The press has been most kind, and the New York Times, in particular, wonderfully kind toward the deliberations of this Congress, and it is with great pleasure that I second the motion.

"I have never received, nor has the society which I represent, so much honor at the hands of the newspapers of New York as on the present occasion."

Dr. Forbes Winslow, who also seconded the resolution, said:

"I should like to add my testimony to the remarks made. I have had a great deal of experience with the English newspapers, but I can assure you my experience with the American newspapers has been most agreeable. One of the chief institutions in your country is your press, and the manner in which it is carried out, and by that I mean its enterprise, is most wonderful. When I go back to England it will be with very pleasant recollections of the kindness I have received at the hands of the American newspapers."

Dr. Hubbard W. Mitchell, President of the New York Medico-Legal Society, who supported the motion, said :

"I desire to express my appreciation of the accuracy which has attended the reports that have appeared in the New York newspapers of the proceedings of this body. The New York Times has, with great liberality, given from day to day most complete reports of our proceedings. That paper's reports have been remarkable for their accuracy. It is with great pleasure that I also second the motion."

Dr. I. N. Quimby supported the motion, likening the New York Times to the man who knew a good thing when he saw it, and remarking that a great many papers of international interest had been read at the Congress, many of which had been faithfully reported.

The resolution was unanimously adopted.

President Clark Bell offered this resolution :

"*Resolved*, That in the opinion of this Medico-Legal Congress not only should the subject of medical jurisprudence be recognized in the various institutions of learning, but in the medical and law schools of this country; that such schools should include such a course in the curriculum of studies, and that examination on this subject be made necessary for graduation in either medicine or law."

Dr. Forbes Winslow, Judge A. L. Palmer, of the Province of New Brunswick, and others supported the resolution, which was adopted.

A communication was received by telegram from the State Medical Society of Rhode Island, congratulating the Medico-Legal Congress upon its work, and assuring the body of its sympathy for and interest in its labors.

The thanks of the Congress were, on motion, directed to be returned to the State Medical Society of Rhode Island.

Judge Palmer moved a vote of thanks to Clark Bell, Esq., for the efficient manner in which he had presided over the Congress, and for the arduous work he had done prior to the assemblage. This was unanimously adopted.

Ex-Surrogate Ransom offered the following resolution, which was unanimously adopted :

"*Resolved* that it is the duty and would add to the interest and benefit of the legal and medical professions if every national and State medical society and every national and State bar association in the United States and British Provinces should appoint a standing committee upon medical jurisprudence."

On motion of the President, a vote of thanks was passed to the United States Government and to Judges Benedict and Brown and to Postmaster Dayton for their aid in securing the use of the court-room for the Congress.

Mrs. Frances C. S. Burnham, representing the Society for the Protection of Persons Falsely Accused of Insanity, called attention to the action of the society she represented in resolutions commending the attitude assumed by Albert Bach, the counsel of their association, in the paper he read to the Congress on "The Necessity of Amendments of the Law of New York Appertaining to Commitments of the Insane," and pledging the support of the society she represents to Mr. Bach's recommendations.

The President introduced Ex-Assistant District Attorney Alexander S. Dawson, who in eloquent language thanked Dr. Winslow for his exertion on behalf of Mrs. Maybrick, who is at present suffering life imprisonment in England on the charge of poisoning her husband.

On motion, the following resolution was adopted :

"Resolved that all matters of business or finance relating to the Congress, its work, or the publication of the Bulletin, be referred to the officers of this Congress, with power.

Mr. Hart made a strong appeal for proper and nutritious bread for all inmates of the public institutions of the State.

The President then declared the Congress adjourned to 7:30 P. M., when the closing banquet would be given at the New York Press Club, to be preceded by a reception at 6:30 P. M., tendered by the resident members to the visiting members and delegates.

CLARK BELL, President.

M. Ellinger, Albert Bach, F. B. Downs, M. D., Clarence A. Lightner, C. A. Doremus, M. D., Secretaries.



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of New Jersey,
Author and Sociologist.

HON. RASTUS S. RANSOM,

CHAIRMAN, COMMITTEE OF ARRANGEMENTS.

VICE PRESIDENT OF THE MEDICO-LEGAL CONGRESS,
EX-SURROGATE OF NEW YORK.

ADDRESS ON OPENING THE MEETING OF THE MEDICO-
LEGAL CONGRESS AS CHAIRMAN OF THE COMMITTEE
OF ARRANGEMENTS.

The New York Medico-Legal Society, under whose auspices the congress about to convene will be held, has conferred upon me the great honor of giving you a most hearty welcome. In the name of the Society, I extend to you the heartiest greetings and offer to you the warm hand of sincere friendship. I beg you to accept our thanks and the thanks of the people of this city and its sister city, Brooklyn, for the opportunity now given to us and to them of increasing our learning in the domain of science so familiar to you.

The importance to the world of these meetings of students and teachers cannot be estimated. Our Society, duly appreciating the inestimable advantage to its members and to the community of the assembling of learned men for the consideration of most important subjects, for the exchange of views, and for full and free discussion of all sides of questions naturally arising, heartily approved the recommendation of our brother, Moritz Ellinger, on whose motion the present Congress has been organized. The prompt acceptance of the Society's invitation by men of deep learning in all the departments of scientific research is a tribute

to the Society and its work which warms the hearts of its members and encourages them to greater efforts in the work they have set themselves to do. We are complimented beyond words by the presence of many distinguished citizens of our own and other cities, representing the bench and the bar and other learned professions. These distinguished persons, who will take an active part in the proceedings, evidence by their presence their sympathy with the purposes of the Medico-Legal Society and with the work to be done by this Congress, and encourage our members to greater efforts and to lasting organization of the Medico-Legal Society.

It is not for me to speak on the fullness of the subject of the work done and to be done by this Society. Its origin and its history are of interest and may be referred to later by the President of this Congress. The few words I have been permitted to speak in my capacity as Chairman of the Committee of Arrangements complete my duty, but I crave your indulgence for a moment before taking up the formal programme, and ask you to join me in paying homage to one of the members of the Medico-Legal Society for his labor in organizing this Congress. A great thinker said: "The creation of a thousand forests is one acorn." This thought and its expression might be appropriately applied to the origin of the New York Medico-Legal Society. Such application, however, is not my special purpose.

I feel deeply the obligation of this community and of the members of the Medico-Legal Society to our Secretary and former President, Clark Bell, Esq. To his learning, industry, zeal, and splendid executive abilities we are indebted for this Congress. The enormous labor of organizing the various departments of the Congress has been performed by him. Other members have given valuable aid, but Mr. Bell has borne the burden with the utmost patience and

utter sinking of self. The thanks of us all are due to him and I feel it an added honor to be permitted in this public place and in this distinguished company to speak these words. I now invite your attention to the programme.

HON. ROSWELL P. FLOWER,

EX-GOVERNOR STATE OF NEW YORK.

OPENING ADDRESS AT MEDICO-LEGAL CONGRESS.

“I am not unmindful, Mr. Chairman, of the honor done me a layman in inviting me to make the address of welcome to a scientific body of such eminent distinction, composed of men who have won distinction upon the Bench, at the Bar, in the varied walks of the medical profession and of medico-legal jurists and scientists interested in public questions so closely identified with the administration of justice in the criminal tribunals.

The statesman, the man who rises above the plane of the work of political parties, cannot fail to have watched with interest the results of your past labors on public questions, where you have sought to promote the public welfare.

It is fortunate for the student of public affairs, and as I believe for the public good, that conferences of men of the learned professions thus convene in the interest of science so intimately associated with the welfare of the people.

I bid you welcome to the City of New York, the great centre of scientific endeavor, of wealth and influence, and I congratulate you as well as the public that you meet under favor and through the courtesy of the Federal Government

NOTE.—Ex-Governor Roswell P. Flower, who was prevented by unavoidable circumstances from being present at the opening of the Congress, in his letter of regret to the President, submitted the remarks he would have made had he been able to be present.

in this place, so fit and proper for such purposes as calls you together.

The great public interest in your labors already shadowed and foretold by that great teacher, which, like the physician, keeps in touch with the pulse of the people the Metropolitan Press of this great city, has voiced a welcome to your labors that must be as gratifying to you as your labors have deserved. It will be a pleasant reminiscence of my public career, now that I am relieved from the cares and duties of official life, that I have been selected, through the too kind partiality of your officers, to perform a duty so agreeable to me, so consistent with the welfare of the people of the state.

I esteem it a high honor, and I assure you that it gives me a peculiar pleasure to welcome you to our city, and to assure you of my great personal interest in the success of your labors.

MEDICINE AND LAW.

BY HON. NOAH DAVIS,

Ex-Presiding Justice of New York Supreme Court, Vice-
President of Medico-Legal Congress, Honorary
Member of Medico-Legal Society.

ADDRESS ON OPENING OF MEDICO-LEGAL CONGRESS,
SEPTEMBER 4, 1895.

Mr. Chairman, coming to my office from the country at a late hour this morning, I found on my table this programme. It announces that the Hon. Roswell P. Flower is to be the first speaker, and that I am to be the second. Mr. Flower has exercised the better part of discretion, if not of valor, in keeping away ; but my respect for my friend Mr. Bell, and the excellent judge presiding over the meeting who, to my regret, has lately vacated a high judicial position, compelled me to come here, not to make a speech, but to see those present and to congratulate them upon the great progress that has been made in medico-legal learning in both our professions. For my own part, I think that that progress has had a great effect upon the advancing civilization of mankind. In the last fifty years this effect has been more manifest than ever before, and I think more especially useful and beneficial to the human race. More than fifty years experience at the Bar, and on the Bench has given me a reasonably fair opportunity to observe this fact. The medico-legal organizations of our country have brought together the two great professions of medicine and law, in the administration of Justice and the elevation of all the humanities. I don't know how

you all feel about it, but my opinion is, that the medical profession, wherever its skill is duly exercised and its efforts rightly directed, is the most useful to the human family. Nothing can be more useful to humanity; nothing more desirable to the life and happiness of the people than to be sure of the learned, able, self-sacrificing, humane aid of true physicians. The doctor, who commences at the earliest moment of our human lives, and continues during his own life to care for his fellow-beings, to promote their health and comfort, to guard them against all diseases; who makes it a study to take care of and prevent the deadly dangers that are constantly surrounding mankind, is the worthiest officer and agent of our civilization and happiness.

The lawyer is good enough in his place (certainly, there are some good lawyers!), and I don't mean to depreciate my own profession—I esteem it a most valuable one, when its aim is to conserve justice and maintain the just rights of all men under the constitution and laws of the country, but when he becomes the stirrer up of strife, the mere promoter of litigation for his own gain, he is an enemy of the peace and happiness of his own race, and country.

There is little competition, if I may use that phrase, between the lawyers and the doctors, but they are both too apt to become partisans instead of co-operators in the interests of humanity and right.

Now, in this desultory talk of this morning, all I desire to say is, that the Medico-Legal Society, comprising good doctors and good lawyers, is rapidly building up in the country a system of co-operation of great practical value to the world of mankind. It is that system which looks with care, both with the legal and medical eye, and searches for and investigates the true basis upon which society is to be entitled to demand protection and redress for its injured members. It looks into the great criminal cases of the

country; especially those cases where poison is charged to have been used, and by the aid of distinguished chemists and great physicians who investigate those subjects, going to the bottom of the principles and questions involved, we are able to check such appalling crimes and thus protect society.

The fact that this is done with such marvellous skill in England and in this country and in many countries of Europe is largely due to the medical and legal societies which have developed co-operative work to such an extent, that few such criminals can escape.

To the surgeons and physicians present, I tender my thanks as a lawyer, and my esteem for and appreciation of their learning. They have brought us to a time when the destruction of human life by poison is almost invariably discovered, traced by the chemists and proved by the lawyers, who devote themselves to the Medico-Legal branch of their professions. That is one of the great and beneficent results that have followed from the organization of this and other societies; and I beg leave to express my great admiration, as well as my cordial thanks, for gentlemen who have persevered for so many years in this grand work, and among them, Mr. Clark Bell, who sits at my side, and who is entitled to great credit for the skill, ability and perseverance with which he has brought these subjects to the attention of the community. Every man will admit, that human lives are safer, that all classes of the community are benefitted by the efforts put forth by this and other like societies.

THE UNITY OF LAW AND MEDICINE.

BY SENATOR CHARLES L. GUY, OF NEW YORK,
Vice President of the Medico-Legal Congress.

ADDRESS AT OPENING OF THE MEDICO-LEGAL CONGRESS.

In accepting your kind invitation to address you I have been actuated not merely by the desire as a lawyer, to extend the right hand of fellowship to our brothers of the medical profession, but as a citizen to bear witness to the dual obligation which we all of us owe to the two great professions represented here to-day. Working side by side, almost from the time of the establishment of the first social system, medicine seeking to unfold the physical laws of the universe and to remedy the evils resulting from ignorance of the same; the law seeking to establish human government on the principles of justice and equity which constitute moral law, these two professions, working thus together, have accomplished more than all other influences combined in establishing that system of right living, of obedience to physical and moral laws which have come to be comprehended under the term civilization.

And it is no happy accident, no mere impulse of professional courtesy which has led to the union of these two professions in this great progressive and influential society. It has rather come from a deep recognition of the unity of purpose which through all ages has guided and directed their labors, making them such potent factors in promoting the welfare of the human race.

In international matters we have seen their joint influence manifested in the changed conditions of modern warfare. Medicine, having for its object the preservation of human life, the promotion and maintenance of physical health, ministering on the field of battle to friend and foe alike, sowed the seed for that broad spirit of humanity which has led to the abolishment by international agreement of many of the horrors of war, has put an end to the butchery of prisoners, the outrages formerly inflicted upon helpless women and children, the devastation of conquered countries, and has brought about the adoption of more humane methods as among all advanced and civilized nations.

So in sanitary matters, medicine having pointed out the dangers of infection from epidemic diseases and the need of proper restrictive measures, the law has stepped in, and, by the adoption of quarantine laws, universally recognized, has in a great degree staved the course of the great plagues which in former ages spread ruin and death over the face of the earth.

In the treatment of criminals, medical science, disclosing the physical basis of crime, has entered its protest against the cruel and inhuman methods formerly in vogue, and the law, giving intelligent voice to this protest, has abolished such degrading and brutalizing forms of punishment as the thumbscrew, the rack, and the vat of boiling oil. Moral suasion has taken the place of physical torture; the human butcher has been superseded by the electrician, and it is within the realm of possibility, as it must be the earnest wish of all humane and intelligent men, that before another decade has passed judicial murder—the sacrifice of human life by the aid of legal machinery—may be one of the things of the past, discarded as a relic of barbarism.

So, too, the treatment, of the insane, while medicine has labored incessantly toward the mitigation of the sufferings of the afflicted, the law has thrown its sheltering arm about the unfortunate, protecting their property interests and shielding them alike from the injustice of others and the unhappy consequences of their own irresponsible acts.

United thus in this great work of promoting the welfare of mankind, by perfecting the physical and elevating the moral qualities of the race, we may well feel a just pride in the record made by these two great honorable professions to which we belong, and resolve that we will in all things uphold their dignity and high character, and will enter upon the performance of our daily professional duties with pure hearts and honest purpose, as one would approach the sanctuary of the faith.

THE CHEMIST IN THE COURTS,

PROF. R. OGDEN DOREMUS; M. D. LL. D.

Ex-President Medico-Legal Society, Professor of Chemistry, Toxology and Med. Jurisprudence, Bellevue Hospital Medical College; also Professor Chemistry and Physics, College of the City of New York.

ADDRESS AT OPENING CEREMONIES MEDICO-LEGAL CONGRESS.

As an old New Yorker (and I presume I am the oldest of all the native-born New Yorkers present,) I extend my most hearty greeting to all who have come to this city to engage and participate in this Medico-Legal Congress. I also congratulate you that the United States Government has recognized this Congress, and that you and I are permitted to occupy these halls that belong to the Federal Courts.

I believe, Mr. Chairman, it is the first time in the history of the Medico-Legal Society, and I presume that we are chiefly indebted for this to one whom I had the pleasure of knowing for many years, and who has devoted himself with the greatest zeal to the departments of medicine and law combined, and I have seen him go through many trials and tribulations during this time. As Carlyle says, "Every noble crown is, and on earth forever will be, a crown of thorns." I presume the Hon. Clark Bell has found out as much.

I have witnessed extraordinary advances in the history of toxicological chemistry. In my younger days I

enjoyed the acquaintance of a celebrated chemist, Dr. Jas. R. Chilton, who performed the toxicological analyses for this city. No especial laboratory for such important work was employed, nor were the investigations as exhaustive as in these days, partly because the remuneration was inadequate. He told me that after two or three years he would receive from the authorities \$25 for a research of this nature! As illustrative of the work performed in some parts of our country, one of our district attorneys loaned me a book containing an account of a poison analysis, where the chemist stated that he had tested for, and had found arsenic with salts of silver and copper, but had not employed a most important test, with sulphuretted hydrogen, as he did not know how to generate this gas!

Thirty years ago, Dr. Charles T. Jackson, of Boston, said to me: "Fees are a matter of latitude and longitude; with us, the fee for a toxicological analysis is but \$25!"

I replied, "This amount would not pay for an especial laboratory and for new vessels."

He answered, "I do not have a poison laboratory, nor do I purchase new vessels for this work."

Then I said, "It will not remunerate you for the time you devote to it."

A few months later, at my residence, Dr. Augustus A. Hayes, of Boston, repeated to me the statements of Dr. Jackson.

Last year I received a letter from one of the most distinguished chemists in our country, a Fellow of the Royal Society of Great Britain, asking what are the fees for a toxicological research in New York. "With us in Virginia they are \$25."

In addition to the analytical work, the chemist must have frequent consultations with the Coroner and District

Attorney. He must instruct sometimes not only the District Attorney, but the State Attorney in the details of the chemical analysis, to arm and equip him for attacks from the defense, and to protect his own witnesses.

I am proud to say that many eminent members of the bar, renowned in criminal trials, have honored me by working faithfully in my laboratory to familiarize themselves with all the minute details of a poison analysis.

In 1862 I was invited by Dr. Alfred S. Taylor to witness the preliminary details in a poison case in Guy's Hospital. The body had been buried eight years, and had mostly changed into adipocere. All the investigations of this renowned toxicologist were made in the ordinary laboratory, where strangers constantly entered; moreover, vessels in daily use for other chemical work were employed.

I ventured to describe the methods adopted in New York City many years ago.

During an interview with Prof. C. W. Tidy, (one of the authors of the celebrated work, Woodman and Tidy, on "Forensic Medicine,") at his London residence, in 1885, while discussing these matters he said: "I have abandoned making toxicological analyses for the government."

I replied, "I think I know the reason for this decision, so unfortunate for science; to use American expression, 'it don't pay.'" He honestly acknowledged that I was correct.

I told him I was proud to have broken an equally unjust custom in New York. That in 1858, in an important poison case that I knew would involve much time, I declined to undertake it unless promised liberal remuneration. I explained to the authorities that I should require an especial laboratory and a dissecting room, to be kept strictly private, with doors locked and sealed; also new glass and porcelain vessels, and chemicals purified by my-

self. Moreover a competent assistant to aid in the analysis and to observe critically the reactions, so that the testimony involving the reputation and possibly the life of the accused might be presented in court by two witnesses.

Did my limit of five minutes permit, I would like to urge that the arrested party have a pathologist present at the autopsy with the pathologist appointed by the prosecution; also a toxicologist, who, with the chemist representing the State, should decide on the parts of the body to be removed for microscopical and chemical examination.

If the accused is unable to bear the expense necessarily involved, that the Court provide for the same.

The advantage accruing from this mode of procedure would be the avoidance of discrepant testimony, also prolonged and tedious wranglings, thus diminishing the labors of the Court, the counsellors and the jury. It would at the same time serve to guard science from disrepute.

I would respectfully commend another theme for the consideration of this honorable body:

I have keenly felt great antipathy at being obliged to testify in a court-room open to the public, and always partly filled with those of the gentler sex, to extraordinary methods of poisoning, even through the genital organs, and to other matters unfit for ears polite, yet essential for the trial. Testimony has frequently to be given and discussed of immoral practices of the accused, which afford instruction in evil ways it were better should not be presented to the community.

Nearly 2,000 years ago St. Paul wrote to the Corinthians, "Evil communications corrupt good manners." Though 19 centuries have elapsed since this wise record was made, human nature has not risen above its applicability. Hence, I would strenuously urge that when such testimony as referred to has to be offered, the presiding

judge should allow only the necessary officials to be present.

Furthermore, that the representatives of the press be excluded at the same time. There are some journals of extended circulation that boast of publishing accurate details of a "cause celebre."

While the judicial halls can contain but a few hundred persons, who may listen to disgusting and demoralizing narratives, the newspapers distribute the same to millions of readers on the American and European continents—in fact around the world.

The strictest scrutiny is conducted regarding the sale of immoral photographs, yet pen pictures of a most indelicate and heinous character are purchasable for a trival sum of money, and read, not only by adults of both sexes, but by boys and girls, and discussed in the streets, in public vehicles and even in the sacred precincts of home, where purity of thought should never be tarnished.

Lest this proposition should be considered as Eutopian and contrary to the principles of a republican and free government, let me remind you that thirty years ago, when the Imperial rule existed in France, this method prevailed, of excluding the public and the press at certain portions of the trial when testimony of the character described was to be given.

During the years 1862 and 1863, while residing in Paris, I was invited by members of the French bar to attend certain important trials, and can bear personal testimony to witnessing the clearing of the court room of its auditors and of reporters, the legal representatives alone being allowed to remain, when themes of an immoral nature, yet essential for the administration of justice, were to be presented.

THE LAWYER AND THE PHYSICIAN.

BY WILLIAM J. O'SULLIVAN, ESQ., M. D. L. L. B., F. L. C. M.
Vice-President of Medico-Legal Congress.

ADDRESS AT OPENING OF THE MEDICO-LEGAL CONGRESS,
SEPTEMBER 4; 1895.

The far reaching importance of this congress and its transactions cannot be easily over estimated even by enthusiasts, and the fact that it is held in this City of New York is significant and deserved, for it was in this city that the present society was started. To New York belongs the honor of having organized the first medico-legal society, La Societe de Medecine Legal of Paris being the second.

Both law and medicine are very conservative professions and innovations in either are discouraged. The peculiarities of medical practice, and especially of its specialists, tend to make an autocrat of the practitioner. His opinion is rarely questioned. The kind earth hiding many of his mistakes, he develops a belief in himself akin to infallibility and resents criticism as though it was a sacrilege. Yet criticism in some of our courts has shown how valueless many dogmatic statements of our medical brethren are and how wildly speculative they can be.

Lawyers are in much less danger of espousing autocracy of the mental type; the friction of their daily work prevents it. But they drop into another error, and one that especially interests their medical confreres. When they

find opposed to them a truly conscientious physician who frequently qualifies his categorical answers, they regard him as dodging, or, as they frequently express in the vernacular of the exchange, as "hedging," and they treat as quibbling, that which should be credited as a tribute to medical rectitude, and make a false entry when they credit themselves for astuteness or finesse.

The forum, in its relation to the physician, acts as a prophylactic in warding off megalocephalic possibilities, and incidentally it might be wise to suggest to the forensic handicraftsman, be he a disciple of either Draco or Solon, that he runs the risk of contracting the malady he so heroically wards off from the knight of the lancet.

It may be asked what I mean by the terms "physician" and "lawyers" in the foregoing. The great Addison defined a physician as one who prescribed physic, which he adds is "a substitute for exercise or temperance."

A lawyer is defined as one who practices at law, and "the law" has been described by the eminent John Maklin over a century ago as "a locus-pocus science." But why should we waste time in definitions that tend to distinguish lawyers from doctors? Let us rather find that which they have in common—besides a congress.

This much they certainly possess even as joint tenants—the right to grow opulent, contingent on the tribulations of the masses.

Let us remember in our discussions that there are brains still perishing for lack of thought, though dropsical with words, and that many mental digestions are incapable of assimilating the pabulum furnished by feverish science.

Let us also recall the fact that the great scientist Linnaeus wrote "Man is a comic animal par excellence."

MEDICINE AND LAW.

EX-JUDGE ABRAM H. DAILEY,
Ex-President of Medico-Legal Society, and Vice President
of the Medico-Legal Congress.

ADDRESS AT THE OPENING OF THE MEDICO-LEGAL CONGRESS.

It is an honor which I appreciate, to be afforded an opportunity to say a few words upon the auspicious opening of this Congress, which means so much to mankind, through the two great professions, the Medical and the Legal, together with those scientists who blend their talents with the others, in the pursuit of those studies which have such noble purposes for their end and aim. What is life without health, and what is health without the means of enjoying it? How much in these great communities which civilization has established, are these of different vocations and professions dependent upon each other? How essential that they should work harmoniously together for the good of all? Law, the oldest of the professions, was born of the necessities of men in their primal conditions, while medicine, of surpassing importance to our well-being as a distinctive profession, from the domain quackery, is of comparatively recent history. The relation of Law to Medicine was early observed, but that this relation should have anything but casual consideration, was not suggested, until recent years, and the formation of the first Medico-Legal Society was a precursor of important action on the part of these two great professions, which are second to none

in their importance in a progressive age. A few original minds, men of genius, plodders and thinkers, have explored the grounds and opened up the way for others to travel; and these have had no easy task. The difficulties before have not been half so great as the dangers to be feared from those behind them. Bigotry, envy, charlatanry and fanaticism, each and all have sought in the past, and still are striving, to block the way of the benefactors of mankind. The age for throwing down all barriers, and giving free scope to the explorations of man in all directions has come, and let truth be established regardless of the opinions and objections of any. We are coming to realize the great potency of invisible things. The air we breathe, the water we drink and the food we eat are now all made to reveal their properties, by which their poisons and their virtues are discovered. The physician and the chemist each is doing his work in his own way, while laws are being framed to secure to the world the benefit of the labors of these humanitarians. The sphere of woman is being justly enlarged. Whatever she can do better than man let her do it, remembering that nature has adapted each to the filling of certain spheres, and also, that neither feminine men nor masculine women are normal productions.

Let us beware, while we are seemingly wise to-day, that we do not impede the efforts of others to show our errors, remembering that the wisdom of one day has often been shown to be the folly of the next. Let the practitioners of both law and medicine remember the changes that have occurred in the practice of each profession, and recognize the fact, that we are living in an era of astounding discoveries, and be prepared to adopt that which is best until a better shall appear.

LAWYERS AND PHYSICIANS IN THE LAW COURTS.

BY ALBERT BACH, ESQ.,
of New York, Vice President Medico-Legal Society, Sec-
retary Medico-Legal Congress.

OPENING ADDRESS MEDICO-LEGAL CONGRESS.

While listening to the exceedingly interesting remarks made here this morning, it has occurred to me that if in the outside world the sentiments here expressed could find echo, how much good would be accomplished?

I met a physician and asked him to come to this congress. He replied, "What for?" and said: "When you lawyers get us doctors on the witness-stand you bully-rag us; what do you want us to come to you for?" Well, it struck me that that sentiment was not confined to that particular physician. Physicians, as a rule, have an idea that lawyers have a special ambition to disconcert, confuse, and rout them when they are on the witness-stand. If lawyers and physicians could be brought together in such close communion as we find them at such a congress as this, and there could be disseminated views, which are mutually beneficial, how very different would be the animus of the medical concerning the legal profession. In this room harmony prevails between the two professions, but, as a rule, in the outside world, we find a great difference of opinion as to the manner in which physicians claim lawyers treat them on the witness-stand. The physician who comes on the stand as an expert witness is supposed to be educated with such education as will stand a vigorous

cross-examination. Give me an expert—not a so-called expert—but a man thoroughly conversant with the science concerning which he is to be examined, and I will show you a man who cannot be disconcerted by any one. It is true, medicine is an uncertain science. Lawyers can cross-examine a witness in such a way as to show that there is not an absolute, positive result from a given cause; and then in the performance of their duty to their clients they may say to the jury in summing up: "Gentlemen of the Jury, the doctor is not certain of his ground; will you convict a man where the doctor is uncertain?" Where is the juror who will convict under such circumstances? Notwithstanding this, however, we are educating our jurors to the point where they can surmount scientific difficulties and get down to the exact facts in matters of medicine and chemistry; and a sensible body of men, under the guidance of competent experts in forensic medicine and the supervision of the judge, does not go far astray. Therefore, I say, that if the medical profession will join the legal profession in the outside world in an effort to extend not only the membership of this Society, but the knowledge of both professions by mutual conference, then we may attain that position where benefit, rather than discredit and hostility, will result.

I am a believer in scientists consulting together in capital cases. Take the experts for both sides, and have them consult with but one purpose—the ascertainment of scientific truth; then put them on the witness-stand and let them have an opportunity of disclosing their honest views, and there will be but very little conflict in expert evidence, and you will produce conviction in the public mind that after all science is not trying to deceive the public, but is attempting to aid and advance the interests of justice.

THE PROGRESS OF FORENSIC MEDICINE.

BY CLARK BELL, ESQ.,
President of the Medico-Legal Congress.

REMARKS AT THE OPENING CEREMONIES OF THE MEDICO-LEGAL CONGRESS

The seed, planted at an early day in this city more than a quarter of a century ago, resulting in the establishment of the Medico-Legal Society, to which Dr. O'Sullivan, has so eloquently and justly alluded, found its first fruit in the establishment of the Medico-Legal Society of France, which has always given us the credit of inspiring that action, and with whom we have since been in bonds of fraternal union in scientific labor.

When the Medico-Legal Society of France had been inaugurated at Paris, after the corner-stones of the American Society had been laid, the place of its meeting, was a question upon which the Government of France was asked to pass, and by its decree that Society was recognized as established for the welfare of France, and by a decree of the Government of France its place of meeting was fixed in the Palais de Justice, where it has since held its sessions.

It is a fit occasion to express our congratulations, that this Medico-Legal Congress held under the direct auspices of the Medico-Legal Society, has through the proper officials of the Federal Government of the United States, in laudable imitation of the action of a sister republic, thrown open this beautiful Temple of Justice to the Congress, for the study of a science so closely related to and identified with the public administration of Justice, and in returning

your thanks to the Federal officials, through whose kind courtesy we are permitted to meet here, I discharge a peculiarly agreeable duty.

In the name of the Medico-Legal Society, under whose auspices you assemble, and of the Federal Government of the American Union, who have thrown open to you its highest temple as a place of meeting, I welcome you to the labors of the body and to the discharge of the duty that lies before us.

WORK OF THE MEDICO LEGAL SOCIETY. PROGRESS OF THE SCIENCE.

INAUGURAL ADDRESS OF CLARK BELL, Esq.,
President of the Medico-Legal Congress.

The history of the Medico-Legal Society when it shall some day be written by the historian of the next century, notably since the year 1870 for the quarter of the century that has since intervened, will show best, the advance that has attended the development of the science of medical jurisprudence, upon the American Continent and the world.

The organization of the American society gave such a stimulus to foreign students that the Medico-Legal Society of France soon followed, and later that of Belgium, and of societies organized for the study of branches of the science in Italy, Russia, Holland and other countries.

The antagonisms which existed twenty years ago between the legal and the medical profession in the metropolis of the Nation, have been almost wholly obliterated, and of the labors of this society it may be truthfully said, that it has educated the physician so as to better prepare him for the discharge of his duty as an expert upon the witness stand, and the bar to respect and the bench to protect, the intelligent, conscientious physician in his duties as a witness in the courts. From slow growths and small beginnings it has awakened in medical men a laudable pride, in studies that have advanced the science on its medical side in many ways, that have attracted the atten-

tion of the scientific world; while upon its legal side it has grown and advanced with equal strides, keeping step on important public questions with that growth and development of forensic medicine, that has attracted the attention of jurists and publicists in all lands, and especially to the progress of medical jurisprudence on this side of the Atlantic.

Among the eminent names who have lent their talent and influence to the labors of this society who have passed away, we may speak without invidious reflection or distinction of David Dudley Field, Edwin M. Stoughton, and William A. Beach, of the bar of the metropolis, and among its medical men of Stephen Rogers, Frank Hamilton, who occupied the chief seat, of James R. Wood, Fordyce Barker, not to mention illustrious names of men of foreign lands who were upon its roll of members; nor to speak of eminent names of both professions now alive, many of whom are present, who have distinguished themselves in the labors that have won for the Medico-Legal Society that distinction and renown which has been justly awarded to it in all lands. These living witnesses have seen the fires lighted in the early days of the society, fed by these hands that are now still about it, from its small and inauspicious beginning, and fanned into a flame that has become a beacon light to the student of forensic medicine, wherever he sits, or in whatever language he speaks, even among the islands beyond the distant seas.

As to its mission. In every continental university of learning, with scarcely an exception, in the department of law and medicine there is not only a Chair of Forensic Medicine, but it is taught as a science, and a knowledge of its leading principles is a prerequisite to graduation. This, while true of Scotland, is unfortunately no so true of England. It should be a part of our duty to make

it true of every school of law and medicine in the United States of America. The labors of this society for a reform in the office of Coroner, and the discharge of his duties, now, after so many years near fruition, should be a source of great pride to the members of this society.

The battle of thought, which, originating in the judicial decisions of New Hampshire, by its learned and courageous Chief Justice Doe, followed later in Alabama by Mr. Justice Sommerville's decision, who afterward graced the Presidential chair of the Medico-Legal Society, and the decision of other American courts of last resort in the several States, as to the true legal test of responsibility of the insane charged with homicide, against what has been called the "right and wrong" test, has led, largely through the action of this society and its officers, to an evolution of judicial thought and decision, not only in Great Britain, but in many of the American States, until now it is doubtful if any insane man will again be executed in England, and these unfortunate cases will no doubt be rarer in the American States.

The Society's more recent labors have been directed to moulding, creating, and forming a system of medico-legal and railway surgery, which will be commensurate with the greatness and grandeur of the American railway system now so commanding in supremacy and importance, when contrasted with that of other nations and at the same time conservative, protective, and safe for the people, who use the railways and for whom and their use the railways were established, and through whom more than any other cause has the greatness of our country and its wonderful resources been developed.

Its last work is the meeting with courageous hearts and thoughtful purpose the grave questions of psychological medicine where they impinge upon or run counter to the

administration of justice in the tribunals of the country, on lines that shall make it a common labor of love for the chemist, the lawyer, and the physician to work together for the highest good of the people, whose ultimate welfare is the end sought for. And finally, to bind together the great professions engaged in this work by stronger bonds of unity, friendship, and mutual regard.

PROF. HENRY A. MOTT, Ph. D., LL. D.,

Chairman Department of Chemistry.

ADDRESS AT THE OPENING OF THE DEPARTMENT.

Mr. President, Ladies and Gentlemen:

Your attention is requested in the consideration of that department of chemistry which relates more particularly to the science of toxicology.

Chemistry has done much of late to facilitate the toxicologist in his search for poisons. Numerous delicate tests have been discovered and methods of analysis devised for the separation, detection and estimation of the various poisons. There is much more to do, however; many problems to be elucidated, and some, possibly, which will always remain unsolved. I refer to imbibition of poison or the distribution of poison throughout the body by the process of osmosis.

The fact that after death poisons may be introduced into a corpse, and by imbibition or osmosis distributed in two or three weeks' time throughout the entire body, enables persons of unscrupulous character to afford false evidence of death by poisoning, in order to fix the crime of murder on an innocent person. It is, therefore, of the greatest importance that we should be able to distinguish in post-mortem examinations the difference between the traces in the system of those poisons introduced into the body before death with or without intent to kill, and those introduced after death for purposes of embalming on the one hand,

and those introduced by some designing person for malicious purposes on the other

In a paper which I read before this Society some time since, I suggested that, owing to the activity of the constituent elements of a living cell, possibly some chemical combination might take place whereby the poison would combine with such elements, and not simply exist mechanically distributed in the cell, or possibly some crystalline structure might be formed which could be detected by the microscope, assuming neither such chemical combination nor crystalline structure could be formed in the inanimate cell. This subject is certainly worthy of serious investigation.

I will now declare the department opened.

THE ADULTERATION OF MILK.

BY PROF. R. OGDEN DOREMUS, M. D , LL. D , OF NEW YORK,
Ex-President of the Medico-Legal Society ; Vice-President
Medico-Legal Congress ; Professor Chemistry
and Toxicology, Bellevue Med. Col.

I feel confident that the members of the Medico-Legal Congress will unite with me in heartily commending the zeal of the Board of Health of this city in vigorously prosecuting the adulterators of milk. Within a few days I was astonished to learn that the Inspectors frequently condemn samples of milk merely by employing the lactometer and the senses, and throw the milk into the gutter before the chemist of the Board has determined the percentage of total solids and fat.

About 20 years ago I presented the subject to the Medico-Legal Society of this city.

It was also before our courts.

In the first case the lactometer was inserted in a can of milk standing on the sidewalk in the middle of August and no thermometer was used !

At a second trial before Justice Josiah Sutherland, the lactometer, thermometer and the senses were the only means employed for testing the milk. This method was at that time approved of.

The case was then brought before the Judges of the Supreme Court of New York, Brady, Davis and Daniels ; they rendered the following opinion :

“If by tests made by scientific men the lactometer or lactodensimeter furnishes only questionable evidence of adulteration, it should not be re-

garded as sufficient to warrant a conviction. There should be superadded evidence which would remove the doubt, and if the analysis be necessary for the purpose it should be made. The milk supposed to be adulterated and offered for sale can be purchased and so tested that the result must be certain beyond a reasonable doubt. The testimony given on the trial herein and presented on this appeal establishes clearly that such a test can be made. It may be troublesome, but the Board of Health seems to be vested with the necessary power to have it done, and the duty of protecting the community from illegal traffic, of which it is a dangerous element, demands careful and rigid scrutiny. When the proof is certain, the punishment should be as severe as the law permits."

This resulted, after several years of incubation, in the passage of the following State law :

"When any officer authorized by this act to inspect milk offered for sale shall, in the discharge of his duties, take a sample of milk for purposes of analysis, it shall be his duty to take duplicate samples thereof, in the presence of at least one witness, and he shall, in the presence of such witness, seal both of the said samples, and shall tender, and, if accepted, deliver, at the time of such taking, one sample to the vendor of said milk, or to the person having custody of the same with a statement in writing of the cause of the sample having been taken. In all prosecutions under this act relating to the manufacture and sale of unclean, impure, unhealthy, adulterated or unwholesome milk, if the milk be shown to contain more than eighty-eight per centum of water or fluid, or less than twelve per centum of milk solids, which shall contain not less than three per centum of fat, it shall be declared adulterated." * * * —Section 16, Amended Law 1887, Chapter 430

Last Friday I obtained a private interview with one of the members of the Board of Health, at his office, and expressed my surprise at recently learning that the inspectors daily destroyed milk after merely examining it with the lactometer and the senses, and prior to determining the total solids and the fat by analysis. I asked if I could be shown any law that authorized this summary action, which seemed to me unjust to the vendor, for neighbors and passersby who witnessed the pouring of the milk into the gutter would naturally conclude it was adulterated milk, an injury to the milk-seller's reputation and business. I was invited into the office of the President of the Board, and informed him of the object of my visit. Without giving me the law I desired, he asserted that whenever the milk

had been destroyed, it was afterward found by analysis to be adulterated.

Other officers of the Board made the same assertion.

The indefatigable and ubiquitous reporters gave incorrect statements to their journals of my visit, and I was made to appear as a defender of the wholesale milk adulterators.

I subsequently obtained from a legal friend the following State law, 1889 :

"2. Samples of milk seized to be delivered to vendor.—Whenever any health officer or other official in the discharge of his duties shall seize or destroy or cause to be seized or destroyed any milk belonging to another person, such health officer or other official shall take a sample of such milk in the presence at least of one witness, and shall in the presence of such witness seal the said sample, and shall tender, and, if accepted, deliver, said samples to the vendor or person in custody or charge of the same, with the statement, in writing, of the cause of such seizure or destruction, and the date of such destruction or seizure."—L. 1889 C. 397, Sec. 1.

During the second milk trial referred to the following quotation was read to the Court from the work of Bourchardat and Quevenne, entitled "*Du Lait*," pp. 1 and 2.

The commission appointed by the French Government in 1844, and composed of Messrs. Soubeiran, Rayet, Gueveau de Mussy, Bouchardat and Orfila, Secretary, adopted the following method in examining milk :

"If the guilty one is to be severely punished, it is especially necessary that the innocent one should not be confounded with him ; we advise this method to reconcile all interests, and make the daily examination of milk possible in the largest city.

"We take Paris for illustration.

"1st. The Commissioners of Police, or the Inspectors under their orders, shall conduct the following methods every day at the milk dealers in their section ; these operations can be made in less than a minute.

"a. Take the degree with the lactodensimeter (lactometer).

"b. Taste the milk.

"If the degree indicated by the lactodensimeter is below 29 degrees, take notice of the temperature as stated on pages 10 to 15.

"Or if the taste, or the color, shows something abnormal, be very careful, before concluding, after these preliminary tests (unless the dealer confesses or signs an affidavit) and take a sample of at least half a litre of

the suspected milk, having taken the precaution to make it homogeneous, by mixing it thoroughly, and send it immediately to the expert chemist appointed by the administration.

"This mode of procedure has the incontestable advantage of respecting the reputation of the dealer, and of not making a confiscation, a circumstance which is always grave, only when there exists a very strong presumption of violation of the laws."

At the same milk trial I quoted, as an expert in court, from the work of the English analyst, J. Alfred Wanklyn, on "*Milk Analysis*," as follows :

"The lactometer, or lactodensimeter, was at one time a great favorite. In France, a few years ago, the police would take action at once on a reading of that instrument, and turn milk out into the gutter if it were condemned. * * * But although it is so very popular, and although it has been so implicitly trusted, the lactometer is a most untrustworthy instrument. There hardly ever was an instrument which has so utterly failed as the lactometer. It confounds together milk which is exceptionally rich, with milk which has been largely watered. There is a prison not far from London, and the prison authorities are specially particular about their supply of milk. They allow no milk to enter the prison unless it comes up to the M mark on a certain lactometer. The M mark is pitched very high, and the milk purveyor reaches the M mark by skimming the milk.

Professor Sacc, formerly a confrere of Professors Agassiz and Guyot, in Switzerland, wrote to me at the time that he had 12 years' experience as chemist for his government in the examination of commercial milk, and condemned reliance on the lactometer as vigorously as I did.

He also narrated how it led to ingenious adulterations of milk.

Hydrometers, alcohometers, acidometers, oleometers and urinometers are reliable scientific instruments, as the foreign substances they are employed to detect are either lighter or heavier than the liquids tested.

Since both water and cream are lighter than milk, the lactometer is valueless in determining the cause of the varying specific gravity of milk. We ask it to make a differential diagnosis which is impossible.

Allow me to present additional reasons for opposing the

lactometer being used with the senses to decide on the value of milk without chemical analysis.

It favors and aids the adulteration of milk. Prior to the milk trials I visited dairies in Orange Co., N. Y., in New Jersey and in Connecticut.

At a milk depot on the Erie road very early one morning I found employees removing from cans of milk the small amount of cream that had arisen since the previous evening.

I observed that the lactometer inserted in the milk stood above 1,029 degrees at 60 degrees F., and that 1-7th of water could be added to this partially-decreamed milk, and yet the lactometer would indicate 1,029 degrees.

I asked what they called this milk? The reply was, "Board of Health milk." One thousand four hundred cans of this milk came into New York each morning by the Erie road.

The inspectors using the lactometer and the senses never condemned it, for the removal of this small amount of cream could not be detected by the senses.

Thus the lactometer protected fraud, and if impure water was added might produce disease, as in recent very sad cases in the State of Connecticut.

At this time I was offered a generous fee if I would stand by the lactometer.

The party proposed starting a creamery.

A well-known physician in Westchester Co., N. Y., informed me after the milk trials referred to, that a purveyor of milk confessed that he colored water of a slightly yellow tint with caramel (burnt sugar), then added sugar and salt, until the lactometer stood at 1,029 degrees at 60 degrees F., and mingled this with his milk and sent it to this city. He feared he would be arrested, but was not, for the lactometer and the senses could not detect his adulteration.

At the second of these milk trials Mr. Vaughan, State Assayist of Rhode Island, and Milk Inspector for the city of Providence, testified that an employee of the largest milk dealer in Providence, from whose service he had been discharged, stated that his employer added burnt sugar to water, until it had a color like that of a piece of yellow paper he always used for comparison, then added sugar and salt to the water until the lactometer indicated the gravity fixed by law as a standard. He then mixed this with an equal volume of milk and sold it to his customers. The lactometer and the senses did not reveal this adulteration.

In both of these cases impure water, possibly containing disease-generating germs, might have been added.

Many other methods of adulterating milk might be quoted.

Doubtless now, as in years past, the inspector is deceived, as where the lactometer indicates the legal specific gravity, and the color, taste and odor are normal.

The assertion that no milk from healthy cows shows a less specific gravity than 1,029 degrees at 60 degrees F., has within the last week been reiterated by the officials of the Board of Health.

Whatever their personal experience has been, they must not deny to other competent authorities the equal power to determine so simple a physical property of milk as its specific gravity. Prior to the "lactometer" agitation in New York, Prof. S. B. Sharples, State Assayer of Massachusetts, and Milk Inspector of the City of Cambridge, in a memoir presented to the American Academy of Arts and Sciences, Dec. 14, 1875, gives the results of tests made upon the milk from 19 different cows, five yielding milk below 1,029 degrees in specific gravity at 60 degrees F.

Many other equally reliable authorities with the above can be cited.

The Board of Health authorities then fell back to the position that while individual cows might show such abnormal conditions, it was impossible with herd milk.

This has also been disproved by tests made by scientific men, who were independent observers.

It appears, though, that officials who should be presumably familiar with such memoirs as the one cited, audaciously ignore them, and endeavor to make the public believe that any attempts to secure fair treatment of a vendor of suspected adulterated milk are actuated by personal or sordid motives.

SKIMMED MILK.

Shortly after the aforesaid milk trials, a distinguished lawyer asked if I would appear in court as an expert regarding skimmed milk.

It was a test case. His client had "skimmed milk" for sale at such a price. Placards were placed around his shop announcing the same, and the Board of Health was notified of it.

He was arrested, and at the trial, the then President of the Board of Health, a chemist, testified under oath that skimmed milk was unwholesome and injurious to health.

Although testimony was offered to the effect that hundreds of thousands of persons in the rural districts and in cities drank skimmed milk daily for many years without injury, and patients who could not digest "whole milk," because of the cream, were advised by their physicians to substitute "skimmed milk," and a young man testified that he had lived solely on skimmed milk for more than a year, the case was lost.

The late Professor Horsford informed me shortly after the trial that it was the fashion in Boston for ladies to drink skimmed milk, that the cream was separated by a centrifugal machine.

I have learned that in Berlin the same vehicle that carries "whole milk" also has skimmed milk for sale.

In Germany there exist special sanitararia for the cure of patients with disordered digestive organs, where the chief remedy consists in drinking large quantities of skimmed milk.

I doubt if its sale is forbidden in any other city in the world!

A few years later the following State law was passed :

"No person or persons shall sell or exchange or expose for sale or exchange any unclean, impure, unhealthy, adulterated or unwholesome milk, or shall offer for sale any article of food made from the same. The provisions of this section shall not apply to skimmed milk sold for use in the county in which it is produced, and in adjoining counties, except in New York, and in Kings counties (where it shall apply), provided it is sold for and as such."—L. 1885, C. 183, as Amended L. 1886, C. 577; L. 1887, C. 223, and L. 1888, C. 550.

In accordance with this law skimmed milk is wholesome in Orange County and other counties of our State, but is unwholesome and injurious to health in New York and Kings counties!

It reminds us of the law passed by the last Legislature making it illegal to open barber shops in the Capital of the State, or in any city of this State, on Sundays, New York and Saratoga excepted.

Do not our laws on milk examination need revision?

SOMATIC DEATH BY POISON.

BY PROF. HENRY A. MOTT, PH.D., LL.D., OF NEW YORK.

If I were to have designated the title of my paper "Death by Poisoning," I would have failed to convey the subject matter to which your attention is directed, hence I have qualified the title so as to read "Somatic Death by Poison."

Science has demonstrated that the constituent particles which compose the human body, at any one time, are different from the particles which composed the body some seven years before. At the same time we must not forget that that which is within us, which enables us to make our presence known, or enables us to establish our individuality, has not changed except intellectually; in other words, the ego persists, and while somatic death may be superinduced by substances catalogued as poisons, thus destroying the medium in which the ego can demonstrate its individual existence, I am of the opinion that the ego persists as an objective thing, being indestructible and unacted upon by poison or any material substance. It is a well-known fact that that force known as electricity requires a conductor for its transference, yet it would be idle to maintain that without such conductor this force has no objective existence, especially if we regard the same as an objective thing or entity, which my investigation and study have led me to believe. I am quite conversant with the fact that that which produces electrical phenomenon has been, and is by many still, attributed to mere molecular motions, although, to the thinking mind, it must be clear that motion

is simply a phenomenon which is a result; in fact, motion is but position in space-changing. It of itself can do nothing in physics, while electricity can, and often does, produce motion.

Without elaborating further in this direction, I would remark that the time will come when the immaterial entities of this universe will be conceded to be the real in nature.

Directly approaching the subject matter of the problem under consideration, according to the accepted deductions of science, somatic death results when the vital functions of the body are permanently arrested—the conscious ego being eliminated from the carriage or medium over which it for a time controlled.

In treating the problem of "Somatic Death by Poison," we can conveniently consider the subject under two heads:

1st. What is the ultimate cause of death? and

2d. How does poison kill?

The problem—to what can be ascribed the ultimate cause of death, whether the primary causes were disease, mechanical or poisonous agencies?—appears, to my mind, one which requires thoughtful consideration, and one naturally involved in the subject matter of this paper.

We are informed by the leading scientific works that there are three centers of life—namely, the brain, lungs, and heart—and it is asserted that should the functions of either of these organs be arrested, death would result. Now, the fact is, that if the lungs are so impaired that they can no longer supply the requisite amount of oxygen to purify by oxidation the contaminations of the blood, death will eventually ensue. Again, if the brain is so injured that it can no longer incite the requisite nerve energy, so as to cause the muscles of the heart to perform its functions of contraction and expansion, thus forcing or pumping the necessary

blood throughout the system, death eventually takes place; and, lastly, if paralysis of the heart be caused by an injury, be it from causes which emanate from within or from without, death is sure to be the result.

While we will admit the truth of these statements, still we have left the problem unsolved—namely, the “ultimate cause of death,” and it appears to my mind that the solution of the same can be arrived at by asking the question, What enables us to live? The well-known saying is true—*i. e.*, “The moment we commence to live, the same moment we commence to die”—which means that in sustaining life we burn up or utilize our own substance in its sustenance, and that to continue to sustain the organism in a state of vitality, it becomes necessary to replenish the same with such appropriate food elements as will repair the waste. Owing, however, to abuses and failing to understand and adopt the laws which govern the continuance of life in the individual, even an inexhaustible supply of food elements can no longer promote or sustain life. The fact remains, however, that we live by virtue of the appropriate food elements which are circulated and distributed by our blood, and which are utilized in building up and sustaining the living organism, thus counteracting the wear and tear the system has normally to undergo. I would, therefore, advance as the true explanation, that the instant the blood ceases to circulate, death would be the natural result; hence, we may answer the problem under consideration, that the ultimate cause of death is the arresting of the circulation of the blood. The causes by which such a result may be brought about are secondary, and are almost numberless.

I can hear some one say that when the heart stops beating, and not until then, does death result. This is an erroneous view to take, as frequently after an animal has been pronounced dead, the heart can be removed, cut into

parts, and such parts will beat—that is to say, contract and expand—for ten to twenty minutes. The arresting of the beating of the heart is not, therefore, the ultimate cause of death, which alone can be ascribed to the arresting of the circulation of the blood.

We are now prepared to approach the consideration of the second head—namely, “How does poison kill?”

It becomes necessary, therefore, to define what is meant by poison, and the following definition will suffice:

Any substance, other than an inert or insoluble mass, which, when introduced or absorbed into a living organism that is capable of destroying life or impairing the health of the organism, is a poison.

By studying the action of various poisons upon the system, it has been possible to group them together under certain heads, as, for example, corrosives, a type of which the soluble chloride of mercury would illustrate; irritants, which may be subdivided into mineral, vegetable and animal substances, the mineral being again divisible into non-metallic and metallic substances, the first being illustrated by oxides, alkalies and their salts, and the second of which arsenic is a typical representative. Savin will illustrate the vegetable irritant, while cantharides will illustrate the animal irritants.

Another class are the narcotics, which act upon the cerebral-spinal and cerebro-spinal organs, acting chiefly upon the brain or spinal marrow. Morphine, strychnine, conine, aconitine illustrating the narcotic poisons.

The next class contains the gaseous poisons, such as carbonous oxide, sulphureted hydrogen, chlorine, etc.

The corrosive poisons act more energetically than the irritants, but also act as irritants and give chemical indications as a rule.

The last class contain the septic poisons—animal poi-

sons, such as the bites of rabid animals and venomous snakes, the sting of insects and poison generated by pestilential carbuncle, etc.

The confounding of alleged irritant poisoning with some forms of natural diseases, such as gastritis, gastric ulcer, colic, peritonitis, cholera and rupture of the intestines, requires the utmost skill of the toxicologist, as the symptoms from irritant poisoning closely simulate such diseases.

Of the various poisons just referred to, experiment and investigation have demonstrated that certain poisons have more pronounced effects upon certain organs, as, for example, the vital function of the brain is arrested by arsenic, barium salts, etc., while digitalis, prussic acid, upas, etc., arrest the vital function of the heart, and the vital function of the lungs is arrested by the absence of oxygen or by the substitution of an atmosphere of hydrogen sulphide, chlorine, etc. The alleged arresting of the function of the organs just mentioned by certain substances designated to be poisons brings us face to face with the main problem, and that is, "How does poison kill?"

It becomes necessary, however, before proceeding, to point out the distinction between inanimate and animate matter. Inanimate or dead matter may be made to grow, such as crystals, but the growth is external, while in living matter the growth is internal and only after decomposition of food.

If we turn to chemistry for a solution, we get but little assistance towards comprehending the distinction that exists between dead and living matter, for the very process adopted to determine the composition of a mass of living matter of necessity renders it inanimate, while the composition can be ascertained still, in living matter the force of chemism is continually active under the influence of the living force, and chemical changes are all the time taking

place, while in dead matter no such changes occur; the analysis is, therefore, of dead and not living matter. For example: Substances which compose any two cells from the same organ would be found in the main to be the same, still their ultimate analysis might differ, owing to the presence of foreign matter in the cell not as yet expelled, on account of arresting the action of the vital force.

Chemistry furnishes a class of compounds known as unstable or unsaturated compounds, which, when preserved under appropriate condition, can continue their existence, so to speak, but under inappropriate conditions will immediately alter their composition in the formation of a stable or saturated compound. The simplest illustration of unsaturated compounds is sulphurous oxide SO_2 and carbonous oxide CO ; these, under suitable conditions, become sulphuric oxide SO_3 and carbonic oxide CO_2 , and in one sense may be said to have grown; they have not grown, though, like the living cell, which takes in food, but always remains of the same composition and possessed of the same properties, for, in the case of the oxides referred to, neither the composition nor the properties are the same after the change takes place. If we turn to the hydrocarbon series, we find, starting with a saturated compound like methane CH_4 , that by the addition of a constant homologue, as CH_2 , for one of the hydrogen, there is obtained a substance called ethane $\text{C}_2 \text{H}_6$, then $\text{C}_3 \text{H}_8$, &c.; each new substance, however, possesses properties peculiar to itself, and therefore such changes furnish no light.

Just, however, as under the action of an electric spark, hydrogen, gas and oxygen in the correct proportions will unite to form water, so the living cell under the influence of life force (an objective thing or entity), is able to take into itself—under normal conditions—not substances which will change its composition and properties, but

substances (food) which will sustain its composition and properties. Take, for example, a member of the group monera—a mere speck of protoplasm, but still possessing life—and I might say right here, that when considering the nature of life, we can be guided by Prof. Orton, who said: “That only is essential to life which is common to all forms of life—our brains, stomach, liver, hands and feet are luxuries—they are necessary to make us human but not living beings.”

Let us now turn to our monera, which is able, under the influence of the living force which acts within it, to pick up food, increase its size, and finally spontaneously divide itself into two parts, either one of which, on becoming independent, increases in size and acquires all the characteristics of the parent.

This property of living matter, under normal conditions of selecting and taking in food that will permit the cell to remain of the same composition and possess the same properties, is the most marvelous process in nature, and inanimate matter can never furnish its equal.

You notice that I have twice used the word normal. I did so advisedly, for it is right here that we must look for the solution of the problem, “How does poison kill?” It is my opinion that in the case of arsenical poisoning, which will serve as an illustration, that when arsenic is taken into the system in quantity sufficient to produce somatic death, such result is brought about from the fact that the cells—for example, in the brain—parting with some of its substance in performing its functions and endeavoring to isolate from the circulatory fluids additional substance for sustenance, finds arsenic present in these fluids capable of exercising sufficient affinity to combine with the constituents of the cell, its composition is altered, so that it becomes possessed of new properties and when cell

after cell is thus affected the organ as a whole can no longer perform its functions, the heart becomes immediately affected, as does the circulation, and when the latter has ceased to circulate death results.

I do not wish to be understood as saying that a chemical combination must always take place between a poison and the constituent elements of a cell, but I do say that when the foreign poisonous substance in the circulating fluids around the cells can exert a stronger action either mechanically or chemically than the life energy of the cell is able to exercise, the cell and organ, as a whole, becomes inoperative.

THE CHEMICAL IMPORTANCE OF PTO- MAINES OR CADAVERIC ALKALOIDS IN MEDICO-LEGAL ANALYSIS.

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The great advancement that has been made in physiological chemistry of late years has materially affected some of the views formerly entertained by our older investigators, and as a result of the experiments of the many workers in that very important field of scientific research clearly shows that from the tests that were regarded as infallible for the detection of certain poisons in medico-legal analysis, that it is possible to obtain the same reaction with a class of very important substances that are produced by the body, or by the process of decay in a dead body, it is at present a well-known fact that excretions of all living things contain substances that are poisonous to the organism which secretes them. Thus, for example, a person may be carefully dieted and allowed to drink only absolutely pure water, eat food of the very best quality, breathe the purest air, and yet in the excreta can and has been found poison. Now, where does the poison originate, and what are its effects on the system in its various transformations? And is the presence of such poison and its products not easily mistaken in cases of medico-legal analysis, and causes error on the chemist's part, by the use of certain tests to ascertain the presence of the poisonous vegetable alka-

loids, especially as the quantity usually operated on is generally small, and which, by the presence of the ptomaines, might be unconsciously led into error? There is abundant evidence that such has been the case, and possibly some innocent life may have been sacrificed by the finding of poison that was due to natural causes, and which already existed in the body or originated after death by the process of putrefaction, which by the delicate color, reaction tests might have been mistaken for that of the administered poison of vegetable alkaloids.

Very fortunately the chemical analysis was generally regarded in former years simply as a link in the chain of evidence. But to-day more importance is attributed to the chemist's finding. The question of a very grave character now presents itself—namely, the fact of being able to distinguish beyond all possible doubt between the poisons known as the vegetable alkaloids and those that originate after death by processes of decay.

It is the object of this paper to show you that much original work requires yet to be done, because the tests formerly supposed to be infallible for the detection of morphia in the dead body will give the same reactions with the ptomaines also.

Before entering upon the more practical side of the subject, and differentiating the ptomaines from the vegetable alkaloid poisons, I will refresh your memories a little on physiological chemistry. The microscope has revealed to us the size and shape of the various cells of which our bodies are composed, but in the study of these elements of life, we must not be forgetful of the fact that they have a chemistry as well. The life of the cell is influenced by its surroundings. They grow and perform their allotted work when supplied with the

proper pabulum, and become injured when the product of their own activity collects around them. This poison, therefore originates in the metabolic changes which split up the organic molecule into its simpler parts, and the final results being urea, ammonia, water and carbon dioxide. During this process of change, that some of the intermediate products are highly poisonous is already well established. The difference in quantity and quality depends on the nature of the proteid acted on and the force with which the action takes place. The human body resembles a colony of fungi, or cells, which, when their functions are not interrupted, are normal, so to speak, each cell changing its environments into itself and the products of its secreta. Thus, our whole body really lives by the joint ferments of the structure, each cell or group of cells supplying its special function. Any cause by which the cell or cells are prevented from doing their allotted work produces disease, the study as to the cause of which has of late assumed great importance. As the methods of many of the pathogenic bacteria are due to the production of this form of poison, and as it is found to exist in the dead body, it has received the name ptomaines. All putrefaction is now considered due to the action of bacteria, and as a result of the growth of these organisms form a very complex class of substances, which are known as ptomaines, or cadaveric alkaloids. They are produced from albuminoid substances by the influence of putrefactive decay. Unfortunately they bear a very marked resemblance in many ways to the class of substances known as the vegetable alkaloids.

There have been separated up to the present time about 60 separate ptomaines, each of which has been so thoroughly studied that their respective chemical formula

is already known. Some are intensely poisonous, while others are inert. I will not attempt, in this short paper, to enter minutely into the special actions and the respective tests allotted to each, but will present to you the method by which these ptomaines can be isolated, and have arranged these into classes according to their behavior to solvents; and also mention some of the tests that are quoted in various test books as reliable tests for the presence of morphine, but which have been proven utterly untrustworthy when applied to medico-legal analysis of an exhumed body, as with these very tests ptomaines will give the same reactions.

These ptomaines, or cadaveric alkaloids, possess all the characters of the vegetable alkaloids, are alkaline in reaction, combine with acids and form salts. Some are liquid and solid, others crystalline. Some are very poisonous, while others are not. Their behavior towards the general reagents for alkaloids are similar to those used for the vegetable in many respects. Thus it can be easily seen that from their very origin there is great difficulty in the separation of these cadaveric alkaloids, or ptomaines, on account of the very complex nature of other substance with which they are associated in great number in the decomposing mass. Many methods have been devised, but the one most commendable is as follows, which has been used with such success by the famous Italian investigator, Professor Selmi, and indorsed by Professor Vaughan and others, viz.:

SEPARATION OF PTOMAINES.

The material from which they are to be extracted is divided as finely as possible, and placed in a suitable sized glass flask, to which is added twice its volume of 90-per cent. alcohol, and if not already acid, acidulate

with acid tartaric, and from time to time see that it is acid in reaction as the process goes on. This flask is now connected with a reflex condenser, and placed in a water bath, and kept at a constant temperature of 70 degrees for 24 hours. The warm liquid is then transferred to a specially devised apparatus for filtering, by the aid of atmospheric pressure, as follows: The livuid is poured on a damp cloth placed on a perforated porcelain, funnel, which is connected below with a receiver, from which all air has been exhausted by an aspirator, thus securing rapid filtration, and by repeated washing the mass is thoroughly exhausted.

This acid alcohol liquid is now transferred to the following designed apparatus: A tubulated retort of suitable size is connected with a tubulated receiver by means of a suitable cork covered with membrane to exclude air.

In the tubule of the retort a small perforated cork is placed, through which runs a glass tube extending near the bottom, and finely drawn out to a fine point at the lower end.

And the tubule of the receiver is connected with a Leibig bulb, containing dilute sulphuric acid (1 to 10 per cent.), and the bulbs are connected with an aspirator, by which means a fine current of air is drawn through the liquid and keeps it constantly agitated. The retort is kept in a water bath at a temperature of 28. The receiver is kept cool by a current of water passing over it. In this way the distillation of alcohol goes on rapidly, and decomposition is so far prevented that volatile bases are never found in the bulbs.

The aqueous extract, after the removal of alcohol by the distillation, is filtered and extracted with ether as long as anything is dissolved. It is then mixed with

powdered glass and evaporated to dryness in vacuo. This residue is repeatedly extracted with alcohol, and the alcohol is again distilled by the process above described. The residue is then taken up with distilled water and filtered; then made alkaline with sodium bicarbonate, and repeatedly extracted with ether, benzine and chloroform. Now, in order to obtain the base extracted by these solvents, if bulky, the greater part may be evaporated on water bath and the remainder allowed to spontaneously evaporate.

By this process a great many ptomaines or cadaveric alkaloids have been separated, studied and identified.

The following is a tabulated list of the ptomaines, which have been arranged according to their behavior to solvents, and the action of some of the individual tests compared with their action on the vegetable alkaloids.

FIRST CLASS

includes ptomaines that pass from acid solution over to ether.

GENERAL TESTS.

1. Acid tannic. 2. Iodo-iodide potass. The action of these two tests give similar results to those obtained from natural vegetable alkaloids. 3. Chloride of gold. It gives no precipitate. 4. On evaporating four or five drops of the aqueous solution, the addition of three drops of HC_1 and one drop of H_2SO_4 , gives, on warming, a beautiful violet color. 5. Nitric acid colors it yellow. Ptomaines might be mistaken for digitaline, which is also taken up by ether from acid solutions. Difference.—Digitaline: Evaporate to dryness and treat with H_2SO_4 . It will give a rose color, turning mauve with vapor of bromine.

SECOND CLASS

includes ptomaines which pass from alkaline solution over to ether. This class gives various color reactions and form crystalline products. Physiological test produces slight dilation of the pupil and diminishes the frequency of respiration.

With the following test might mistake morphia :

PTOMAINES.

1. Iodic Acid.—Decomposes.
2. Phospho-molybdic acid, at first a violet, changing to a blue color reaction.
3. Plat. Chloride.—A precipitate.

MORPHIA.

Iodic Acid.—Decomposes.

THIRD CLASS

includes ptomaines not soluble in ether, but soluble in chloroform as obtained from alkaline solutions. All the bases of this class are strongly acid, and possess a pungent, bitter taste. Decompose very readily on evaporation of chloroform, even at a low temperature.

TESTS.

1. Iodic Acid.—Reduces all the bases of this class.
2. Sulphuric Acid.—Gives a red color.
3. Froehde's Reagent.—Gives a red color reaction.

FOURTH CLASS

includes ptomaines which readily pass from alkaline solutions over to amyl alcohol, and insoluble in ether and chloroform.

TESTS.

Hydriodic Acid.—Long needle crystals.

Amylic Alcohol.—A base which does not reduce iodic

acid, and gives no color with the usual tests, thus making a mistake with plant bases impossible.

WARNING.

Morphine can also be in this class, and with the following tests can be mistaken for ptomaines, or vice-versa.

TESTS.

MORPHINE.

Ferric Chloride.—Immediately a blue color.

Sulpho-Molybdic Acid.—Immediately a violet color, changing to blue.

When heated with H_2SO_4 , and traces of HNO_3 added, a blue color, changing pink, then orange, and finally yellow.

When heated with HCl , and a trace of H_2SO_4 added, a distinct violet color, which, by adding HCl and neutralizing by soda bicarbonate, changes to pink and turns green on addition of alcoholic solution of iodine.

PTOMAINES.

Immediately a blue color, but more pronounced.

Immediately a violet color, changing to blue.

When heated with H_2SO_4 , and traces of HNO_3 added, a blue color, changing pink, then orange, and finally yellow. The color being more pronounced.

When heated with HCl , and a trace of H_2SO_4 added, a distinct violet color, which, by adding HCl and neutralizing by soda bicarbonate, changes to pink and turns green on addition of alcoholic solution of iodine.

FIFTH CLASS

includes ptomaines which are not extracted by either ether, chloroform or amyl alcohol, but which are soluble in water and most tasteless.

TESTS.

Sulphuric Acid.—No color reaction.

Chloride of Gold.—No color reaction.

Hydriodic Acid.—Nor color reaction.

It is, of course, necessary that the solocuts and all materials used in extracting and the reagents should be absolutely pure.

In separating and isolating the ptomaines from the vegetable alkaloids a good microscope is indispensable, as the crystals formed by the vegetable alkaloids are very marked.

TWO REMARKABLE CASES OF CHRONIC ANTIMONIAL POISONING.

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It would be difficult to find in the annals of medico-legal literature two cases more worthy of detailed study than those to which your attention is called for a few minutes this morning.

They present in some respects such marked contrasts, and in others such confirmations, that they form for the jurist, the toxicologist and the physician a rare opportunity of judging of the methods of conducting criminal causes, the limitations of expert medical testimony, of our knowledge, or our lack of it, regarding the effects of certain poisons, and the value and necessity of chemical research on occasions where it would apparently be valueless.

The very titles of the cases arrest our attention at first glance. "The People Against Rev. Geo. B. Vosburg," "The People Against Henry Meyer, alias William Reuter, alias Henry Meyers, alias Hugo Mayer, jointly indicted with Maria Meyer, alias Emilie Baum, alias Maria Meyers."

Let us run quickly over the preliminary history of each case. In February, 1878, a physician called at the laboratory of Prof. R. Ogden Doremus and stated that he was attending a lady in Jersey City, whose name he would not give, owing to the prominence of the family,

and who was suffering from an illness he could not feel satisfied was due to any ordinary disease. That suspicions had been aroused in the minds of the woman's relatives, who had been summoned to her bedside in expectation of her demise. That they noticed that when they attended and fed her she got better, while on the nights that her husband sat up with her she vomited and purged and was exhausted. The doctor brought a sample of medicine, some water and some tea, also two white powders in papers. He was informed that in such suspected cases it was important to test the urine, and was asked to send a specimen of this. Two specimens were sent; one of five fluid ounces, received February 22; the second, sixteen fluid ounces and three drachms, received March 5. Later, a small phial, with but a drop of liquid in it, was received, the cork having come out while the bottle was in the pistol pocket of the pants of the patient's brother. Later, part of the pocket lining was obtained for analysis. Antimony was found in varying quantities in each of these suspected specimens, except the two homeopathic powders. As soon as antimony was detected the doctor was advised to remove his patient from her surroundings, or to see that no further poison was administered. When the latter was done, the woman speedily convalesced. Charges were then made against her husband, and an indictment followed.

Dr. Meyer, his wife and two companions came to New York from Chicago and took an apartment. Dr. Meyer, and afterward the victim, Brandt, alias Baum, called separately on a practising physician, the one ostensibly on a friendly visit, the other to consult him. As was related by the third man of the party, Muller, Baum obtained some croton oil and took a dose thereof, be-

coming quite ill. The doctor was summoned, but Baum grew steadily worse. He lingered for about three weeks, was seen almost every day by the physician, who at last called in another in consultation. Baum died and was buried, the physician giving a death certificate with dysentery as the cause of death.

Dr. Meyer and Mrs. Baum presented themselves at various life insurance offices, and obtained \$4,000 of the \$8,500 for which the victim's life had been insured in favor of his wife, who was really Mrs. Meyer. .

When sharply questioned at the offices of the New York Mutual Life Insurance Co., there was so much hesitation and suspicion about the manner of applicants that they were told to call again. This they not only failed to do, but immediately sold out the apartment and left for parts unknown. Dr. and Mrs. Meyer were soon after heard of at Toledo, where they were implicated in another disappearance, this time of a woman. They had engaged a servant girl, and insured her life. Muller, happening to visit Meyer in Toledo, became interested in Mary Neiss, and when she complained of symptoms of illness, which he recognized as greatly like those Brandt had died under, he got her to run away with him. Meyer was thus left with an insurance policy. He engaged another girl. She died. The insurance examiner at Detroit, for Mary Neiss had been insured there, was sent for to identify the body of the deceased woman. Dr. and Mrs. Meyer did not wait for this detail to be executed, but decamped. It was through the efforts of the Toledo police to ascertain their whereabouts that the detectives of the Mutual Life Co. were able to locate Muller and his wife, and through him Dr. and Mrs. Meyer. This was ostensibly for the Toledo crime, from which Muller had rescued

his wife, and in which he was in no way implicated. As soon as Meyer was caught Muller was informed that he also was wanted, and that the reason therefor was the New York event. Muller then turned State's evidence to save his own life.

Meyer, Muller, Brandt and Baum, for a real Baum had existed, became acquainted in a Western jail. The plot was to have Brandt simulate serious illness, for his friends to secure a corpse, deceive the physician, and through its burial obtain proof of death and collect the insurance effected on Brandt and divide the cash. They did divide what they obtained through poor, deceived Brandt's death. Before Muller and Meyer had been secured, however, the Coroner of New York had conducted an autopsy on the remains of Brandt, alias Baum, and turned the viscera over to me for chemical analysis. The analysis disclosed antimony and arsenic in considerable quantities in various organs. Meyer and his wife when apprehended were brought to New York and indicted by the Grand Jury.

In each case the administration of antimonial poison with intent to kill was therefore the basis of an indictment. In each protracted illness of severe character baffling medical skill led to the suspicion of crime. In the first timely discovery of the presence of poison in food and evacuated urine caused the guarding of the patient and her ultimate recovery; in the other, failure of the antimony to cause death prompted the use of arsenic to end the life of the victim, and thus the suspicious character of the illness was a link in the chain that caused an exhumation and analysis of the body.

The records of antimonial poisoning, except in a few accidental cases, shows that it has been resorted to by persons in the better walks of life and possessing more

than the average intelligence. These cases follow the rule. The reverend gentleman who was brought to the bar was not as unfamiliar with toxic agents as would appear from his testimony, as was shown, unfortunately, subsequent to his acquittal. Meyer was possessed of considerable medical knowledge, though his practice was irregular—he was known as Dr. Meyer. Vosburgh, from his calling, could not have bought or kept poison about him without exciting suspicion; Meyer, on the other hand, was entitled to have and to use poisons. Had the prosecution in the Vosburgh case been able to produce the evidence they obtained just after the case was closed, of his having purloined the tartar emetic from the store of a druggist friend, and with whom he had had desultory talks on the subject of poisons, the defendant never would have sworn that “I have never had tartar emetic in my hands until I passed a powder of it over the table in this courtroom.” Though acquitted by the jury, the druggist’s disclosure brought from the public so strong and general a verdict of guilty that the pastor speedily departed for regions where his true character was unknown.

Meyer was one of the party of rascals leagued together to defraud life insurance companies, and one of his pals turned State’s evidence and declared that Meyer had shown him a paper in which was “*brechweinstein*” (tartar emetic), and that he had witnessed the use thereof on the food given the poor deceived wretch who was party to the plot, but lost his life through the treachery of those he thought his friends.

It is of paramount importance in prosecuting a case of alleged homicide by poison to prove the purchase or possession of the poison. The cause of the people against Vosburgh met one of its greatest obstacles in not being

able to prove the former at the time of the trial. Every effort was made through detectives and the subpoenaing of druggists who had sold tartar emetic, both in Jersey City and New York, to secure this important evidence.

Most of the druggists questioned had not sold any antimonial preparations, even the one to whom Vosburgh went, and he never dreamed that his store of tartar emetic had been depleted until by some inexplicable impulse he was led to look at the bottle on the shelf, when the whole question of where Vosburgh got his supply became clear. About an ounce of tartar emetic was missing from the bottle.

Popular interest was aroused by each trial, but while the sympathy of the congregation, especially the female portion, the eminent counsel defending the accused and the press were powerful factors in bringing about an acquittal of Vosburgh, the defence in the Meyer trial had no such stimulus, and were obliged to rely on the legal acumen of the highly experienced lawyers, who devoted their energies so conscientiously to the prisoner's interests. By a fortuitous circumstance for Meyer one of the jurymen became a raving maniac during the closing argument of counsel for the defense. A new trial was thus made necessary. The second jury rendered a verdict of murder in the second degree, and Meyer was sentenced to life imprisonment. Mrs. Meyer, jointly indicted, was afterwards released on her own recognizance.

The defense in the Vosburgh case was conducted along remarkable lines. They made no opening. They put the defendant upon the witness stand, but not the wife. Nor did the wife appear for the people. Poor, frail, delicate and over-wrought creature, she wavered

between substantiating the averments of her family in accusing her husband and her affection for him, with perhaps an added fear of disclosures concerning their married life, which might be brought to light under cross-examination by the defense. During the trial she ran away, fearing she might be compelled to take the witness stand. Relative to her being called for the people, we quote from the summing-up of Attorney-General Stockton, pp. 114 and 115.

While the defense did not deny that antimony had been discovered by chemical tests in medicine, food and urine, they made a bold attack on the experts for the prosecution, tried to get up a personal altercation between them and their own experts, and to thus weaken the scientific value of the evidence. They then made all sorts of insinuations as to how the poison could have gotten into the specimens, and practically charged nearly every witness for the prosecution with collusion in a scheme to defame the Rev. Mr. Vosburgh.

Matters went so far that a bitter altercation arose between the Attorney-General and ex-Governor Bedle, chief of defendant's counsel, ending with a charge on the part of the Attorney-General of "an effort on the part of the defense to trump up a false case." This charge the Attorney-General refused to retract.

But in no one line of procedure were the prisoner's counsel more effective than in that of confusing the minds and exhausting the jury by the mass of medical testimony they forced into the case. Physician after physician was questioned and cross-questioned by each side regarding the woman's symptoms, condition, recovery, etc., as well as on the general pathology and symptomatology of chronic antimonial poisoning and

"rheumatoid gout," which the defense claimed was the cause of Mrs. Vosburgh's illness.

Only two of the many physicians who appeared as witnesses had ever of their own experience had an opportunity to observe cases of chronic antimonial poisoning.

Judge Knapp, in his charge to the jury, commenting hereon, said.

"Most of this testimony, as you remember, is founded on opinion, with more or less of observation, but the witnesses generally are not informed by actual experience in the matter of chronic poisoning. They are opinions, and are competent evidence in the case on that point. It becomes necessary in treating of this answer for the jury to pass upon the question. It may be very difficult to ask the jury to pass upon the question of expert knowledge, but it comes to that."*

The rarity of chronic antimonial poisoning was equally revealed in the Meyer case, where no physician could be found who could testify from his own observations of the symptoms developed in persons suffering from the effects of antimony partaken during a considerable period.

The records of about sixty cases were collected by the writer, by the direction of the District Attorney in the Vosburgh case, and a resume of symptoms compiled therefrom. While the defense tried to belittle this testimony, the disclosure on the part of the physicians of a lack of experience in chronic cases made his deductions fully as competent as theirs. It was necessary to bring the symptomatology of chronic antimonial

* Report Vosburgh Trial, p. 117.

poisoning before the jury in some way, and this seemed about the only way.

As regards motive; Vosburgh was ambitious. He had married early in life a country girl. The relations were shown to be uncongenial. There were no children. It was disclosed at the trial that Vosburgh claimed that his wife had twice secured abortion. Called to Jersey City he found his conditions changed. He was a popular preacher. He had secured the esteem of prominent citizens, the Mayor of the city even becoming a warm friend and supporter. The church was growing, and with it the pastor's influence. His rustic wife was a clog and a drawback. She no longer satisfied either his virility or his aspirations. Her illness was running him into debt. All these factors taken together seemed to be enough to form sufficient motive for so heinous a crime as murder by poison, especially if one were chosen, which, from its effects, would not be likely to arouse suspicion.

The motive in the Meyer case was plain enough. The testimony of Muller went to show that Brandt was a schemer with the others.

Opportunity to administer poison was practically the same in each case. Vosburgh prepared food, drink and medicine constantly for his wife, and gave them to her.

Brandt was attended and fed by his companions, including Mrs. Meyer.

Very little can be said concerning the lines along which Meyer was defended. The opening address by counsel in the first trial substantially admitted a conspiracy of which Brandt was a party; they denied, however, that the body exhumed was that of either Brandt or Baum, and at any rate that any toxicologist could

asseverate that the antimony and arsenic found had not been introduced after death. At the first trial only a few witnesses were examined regarding these issues. A more extended case was developed along the same lines at the second trial. Meyer was not asked to take the stand, for obvious reasons.

As it is an exceedingly difficult matter to collate a description of symptoms, pathological appearances of organs, etc., from medical and lay testimony given at a trial, it has occurred to me to summarize the salient features of these cases by quoting the hypothetical questions asked by the public prosecutors. They embody what was given in evidence by several witnesses and were criticised by the defense in detail before the expert witness was allowed to answer.

"Take these symptoms, burning in the bowels, diarrhœa, mental depression, emaciation and great pallor, great grief, involuntary mucous discharges, sore mouth, numbness of the extremities, pulse increasing after the administration of suspected liquids, soreness of the stomach on pressure, bad taste, craving for cold water, temperature of body variable, vomiting, vomiting after eating, what would you say to this?"*

"Assuming the following facts: A man 26 years of age, died in this city on the 30th day of March, 1892. During the month of August, 1891, he had been carefully examined by three physicians, for insurance on his life, and after a very thorough examination, he was found in a normal condition in every respect. About the 9th of March, 1892, in this city he visited a physician, to whom he complained of intermittent diarrhœa, with slight pains in the abdomen. The physician prescribed powders containing opium and bismuth.

* Report Vosburgh Trial, p. 83.

"On the night of the 11th of March, 1892, he was attended by the same physician, to whom he complained of a frequent desire to defaecate, of nausea, but no vomiting, excessive thirst, of colicky, griping pains, and of straining at stool.

"On examination the doctor found his temperature, under the tongue, about 102 degrees, pulse, 100, tongue furred and moist, abdomen rigid, and that the stools consisted of mucus, blood and faecal matter.

"He was visited by the same physician every day thereafter, until the day of his death; and, on another occasion, by two physicians, in company with the first.

"For the first ten days of his sickness he vomited after he ate each meal, about twenty times in all, or about twice a day.

"The symptoms described above continued, and gradually became more accentuated during the last ten days of his life. The emaciation of the patient, which had been gradual before, became more marked. He had cold perspiration, his voice became feeble, he complained of pains in the calves of his legs, in his back and head, and burning pains in the eyes; his tongue was red and glazed; his pulse small and weak, and, a day or two before his death, he had a temperature of 103 degrees. The stools were now gelatinous and greenish, and as he approached his death, he showed extreme emaciation and prostration.

"The body was not embalmed, and was buried in a cloth-covered wooden casket, surrounded with an outer wooden box, in Evergreen Cemetery, in the County of Kings, on the 2nd day of April, 1892.

"It was disinterred on the 6th day of July, 1892, and brought to New York, where an autopsy was performed.

"The body was very much emaciated, but, externally in a fair state of preservation.

"An examination was made of the organs, but no gross lesions, sufficient to account for death, were found.

"The spleen was natural in size, and there was no cirrhosis of the liver.

"A special examination was made of the intestines, for dysentery, ulcerations and lesions of typhoid fever, but with negative results.

"The heart was normal in size and in general appearance, and the valves of the heart were normal.

"The kidneys were normal in size, and showed no naked eye lesions, and their capsules were not adherent.

"The bladder was nearly emptied.

"The organs were too far decomposed to permit of any microscopic examination.

"The stomach and its contents, the intestines and their contents, the liver and spleen, together with some fluid from the abdomen and thorax, the kidneys, heart and brain, with a portion of the muscle from the right calf, were each analyzed.

"Antimony and arsenic were found in each, though in varying proportions in the different organs, and in varying proportions to each other.

"The chemical analysis, as a whole, disclosed the presence of about six grains, calculated or measured as tartar emetic, and reduced to 2.44-100 grains pure antimony, and 5.2-10 grains of arsenic, calculated as arsenious oxide. The greater portion of these were found in the alimentary tract and liver, and only a trace of antimony was found in the kidneys and muscle, and very little more in the brain.

"Assuming these facts as I have stated in this question to be true, state what, in your opinion, was the cause of the death of the person named in the question?"*

* Stenographer's Record, *People vs. Meyer*, p. 1630.

As the record of the Vosburgh trial has been published and that of the Meyer case is in course of preparation under the supervision of Assistant District Attorney John F. McIntyre, to whom was entrusted the burden of the case, further consideration of the medical and pathological questions which arose in each must be sought, by those interested, in those fuller publications.

Before any chemical tests were applied to the medicines in the Vosburgh case, it was suggested that a sample of Mrs. Vosburgh's urine be analyzed, as the presence of poison therein would be proof positive of its having been taken and being in process of elimination. Two specimens were collected and analyzed. Antimony was found in each. Subsequently the defense obtained a sample of her urine, but found no antimony in it. As the points connected with the discussion which arose at the trial concerning the elimination of poisons by the kidneys and urine have been thoroughly gone over in a paper* read before the Buffalo Medical Association in 1879, it is unnecessary to go over the same ground again.

Many of the arguments brought forward by the defense in the Vosburgh trial meet with complete refutation in the Meyer case. Thus, it was questioned whether there could be "tolerance" of antimony; whether the doses found in the tea, water, etc., if partaken would not have produced immediate death; whether when elimination began it would not proceed regularly until none remained in the system. Indeed, one of the medical witnesses for Vosburgh went into an elaborate arithmetical calculation regarding the elimination and

*C. A. Doremus on the "Importance of Chemical Analysis in Cases of Obscure Diagnosis."

the amount of antimony that might exist in Mrs. Vosburgh's body.

The record of the chemical analysis in the Meyer case has just been published.* Very considerable quantities of antimony and arsenic were found in the alimentary canal. The antimony extracted and weighed would, in the form of tartar emetic, have weighed 9.64 grains. The arsenic extracted and weighed, if calculated to arsenious oxide, would have weighed 5.02 grains.

As a matter of prudence, the District Attorney submitted the kidneys from Brandt to Prof. R. H. Chittenden for analysis. He divided them into two unequal portions. Arsenic in weighable quantities was found in each portion.

From 200 grams of kidney he extracted a distinguishable amount of antimony; from 100 grams—the other portion—none at all. The processes of analysis were slightly different, though equally reliable in such expert hands as his. It was much to be regretted that no urine was found in Brandt's bladder, though the long interval would have rendered deductions concerning any poison found in it somewhat uncertain.

While drawing conclusions of a scientific character from the testimony presented in murder trials has grave disadvantages, many of the most vital facts to the forming of opinion being wholly wanting, yet we feel warranted in the belief from the results of the analysis of Brandt's kidneys that at or about the time of his death only small quantities of antimony would have been found in the urine—probably a greater amount of arsenic. This would show that the elimination was de-

* The Chemical History of a Case of Combined Antimonial and Arsenical Poisoning.—*Journal American Chemical Society*, Vol. xvii., p. 667.

fective, notwithstanding the large quantity of antimony existing in the body.

Such a state of things would fully accord with what authors on these topics state in regard to experiments on elimination of poison, and with the records of actual cases of poisoning.

In the Vosburgh trial the fact was disclosed that the physicians called to attend Mrs. Vosburgh after the accusation of attempt to poison had been made, and who became witnesses for the defense, failed to save the discharges from her bowels and have them analyzed. These would certainly have shown the presence of poison, and either sustained the allegation, had she been dosed with antimony, or by the absence thereof been the strongest kind of evidence of the innocence of the accused.

The physicians collected about 4-5 ounce of urine 12 days after the last dose of poison could have been administered. This specimen the chemist divided into several parts, the largest about one-half, and failed to find antimony. Though the remainder of the pocket lining was cut from the pistol pocket by the defense, no report of its analysis was ever rendered. The defense therefore plainly assumed the position that they were not trying to elicit the truth, but defending their client with all the legal skill they could muster.

The finding of arsenic along with antimony in Brandt's body introduces another element that adds to the unique character of the case. Diligent search at the time of the trial, and since, has failed to bring to light a case where these two poisons were used together as toxic agents. Arsenic has been detected where antimony was the cause of death, but it existed as an impurity in the antimony. Not so in this case. The tes-

timony of Muller is borne out by the distribution of the two poisons, as shown by the analysis of the various organs.

Brandt, like Mrs. Vosburgh, was slow to die. Having been reduced almost to the point of death, the "coup de grace" came through the administration of arsenic. Taylor,* in a monograph on poisoning by tartarized antimony, cites similar cases, where the deceptive symptoms produced by tartar emetic paved the way for a demise effected through a second poison, the cause of death remaining unsuspected by the attending physicians.

We cannot close the comparison of these cases without commenting on the enormous responsibility and work that fell upon the shoulders of the prosecuting attorneys and their corps of assistants. The public, as it reads the progress of the case in the daily press, can scarcely comprehend the inordinate amount of work that has preceded each day's attendance in court. As the trial goes on and new and unexpected phases develop, the people, represented by the District Attorney's office, must be able to command the services of experts and others in order to secure a conviction by just and reputable means. Murder by violence requires no such array of witnesses, except in very rare instances. But when, with cool calculation, a fiend sets out on a deliberate administration of poison, and day after day relentlessly watches the throes of the victim, every available resource of the law at the prosecutor's command may have to be called into action to ferret out and convict the guilty party. District-Attorney, now Chancellor, McGill told me that in New Jersey he was only com-

* Taylor "Poisoning by Tartarized Antimony," *Guy's Hosp. Reports*, 3d series, vol. 3, p. 369.

pensated by a small fee for each conviction secured. Two weeks devoted to a trial of the character of the Vosburgh case not only demanded great labor, but self-sacrifice on the part of the prosecutor. It affords me especial pleasure to be able to offer my humble tribute of admiration of the painstaking, enlightened policy by which District Attorney Nicoll and his able staff were guided in planning and conducting the Meyer and other cases, though the verdict against Meyer at the second trial was obtained through his distinguished successor, Hon. John R. Fellows.*

* Since reading the article at the Congress, Dr. Meyer has been detected by the authorities at Sing Sing prison in another insurance plot. In the course of this he simulated insanity.

THE PSYCHOLOGICAL SECTION OF THE MEDICO-LEGAL SOCIETY.

BY CLARK BELL, ESQ.,

President of the Medico-Legal Congress, and Vice-Chairman and Secretary of Art Section.

The Psychological Section of the Medico-Legal Society has been formed, to engage in every branch of psychology, and mental medicine.

Its officers are annually elected, and are given on the programme of the Medico-Legal Congress.

The work of the Section has been devoted to the following subjects :

1. The medical jurisprudence of insanity.
2. Inebriety, heredity and sociology.
3. Criminality and criminal anthropology.
4. Mental suggestion, and especially of physicians as to experiments in practice of hypnotic suggestion, or the therapeutic value of hypnosis.
5. Experimental psychology.
6. Telepathy.
7. Clairvoyance.
8. Facts within the domain of physical research, including investigation in the modern so-called spiritualism. All members of the Medico-Legal Society, active, corresponding, or honorary, are eligible to membership in the Section at an annual subscription of \$1.50 and receive the Bulletin free.

All others who are approved by the Executive Committee, on payment of \$5 initiation fee and \$1.50 annual dues, payable in advance. The wives of members of the Medico-

An address delivered at the opening of the Department of Psychology and Psychological Medicine at the Medico-Legal Congress, Sept. 4 1895.

Legal Society are eligible to membership on payment of \$1.50 annual dues, without initiation fees.

The organ of the Section is "*The Bulletin of Psychological Section*," published quarterly.

In the present Medico-Legal Congress the work of subjects within the domain of this Section, occupy a large part of the attention of the Congress divided into four departments, each under a Chairman and Vice-Chairman, which are carefully stated in the official programme of the Congress.

1. The first Department—*Insanity and Mental Medicine*. Dr. Forbes Winslow, Chairman, with a Board of Vice-Chairmen

2. The second—*Inebriety*. T. D. Crothers, M. D., Chairman, and a Board of Vice-Chairmen.

3. *Sociology and Criminology*. Hon. Moritz Ellinger, Chairman, and a Board of Vice Chairman.

4. *Experimental Psychology*. Prof. W. Xavier Sudduth, of Chicago, Chairman, with a Board of Vice Chairmen.

Of the sixty-three papers contributed to the present Congress, thirty-five, or more than half are upon subjects within the province of the Section.

The past work of the Section, has, much of it, been published in the Bulletin.

The officers of the Psychological Section for 1894 are as follows:

CHAIRMAN :

Prof. ELLIOTT COUES, of Washington, D. C.

VICE-CHAIRMEN :

CLARK BELL, Esq., New York.	ROBERT J. NUNN, M. D., Georgia.
H. BROWETT, Esq., Shanghai, China.	A. E. OSBORNE, M. D., California.
C. VAN D. CHENOWITH, Mass.	JAS. T. SEARCY, M. D., Alabama.
F. E. DANIEL, M. D., Texas	HENRY HULST, M. D., Michigan.

SECRETARY AND TREASURER :

CLARK BELL, Esq.

NOTE.—By subsequent action of the officers of this Section, and approval of the Medico-Legal Society, all students of the Science are eligible to membership in this Section on payment of an annual subscription of \$1.50, and become thereby entitled to receive the Medico-Legal Journal free.

WOMAN IN THE LIGHT OF LAW AND MEDICINE.

BY ELIZA ARCHARD CONNOR,
Corresponding Member Medico-Legal Society.
Editor, &c., of New York.

It is the view of modern science that the proper study of mankind is woman. She has been called a case of arrested development, and, while that may be so, I submit that just at present she is developing with alarming rapidity.

What I have to say to-day is wholly from the standpoint of a plain, unlettered outsider. I have no experimental knowledge of whether man has larger glabella than a woman, and a woman a larger thyroid gland and a more prognathous jaw than man. Such facts, to my mind, come under the head of highly unimportant, if true, I don't know and I don't care whether man manifests a tendency to metamorphic katabolism, and woman a tendency to metamorphic anabolism. I only know there is manifest plenty of diabolism in both.

In the course of my humble, wholly unscientific observations, it has occurred to me that man's troubles arise chiefly from overindulgence in his appetites; woman's troubles chiefly from overindulgence in her emotions, and one is as bad as the other. Man, I take it, can look out for himself; it is woman that I am interested in.

Whatever woman is, or is not, she is exactly what the prejudices of 1,000,000 years have made her; no more and no less. With no outlet for her brains in the ages past, how was it to be expected she was to have any brains? It

was to be looked for, rather, that she should be 500 years behind man intellectually. Many women are behind man intellectually. I admit it, you sec. But now let us bring her up even, for the blessing and beautifying of the race.

With the conditions of 1,000 centuries of merely animal existence upon her, what wonder that woman has come to regard herself and to be regarded by man chiefly as—the reproducer of fools. I yield to none in hearty admiration of the attainments of the medical profession, but physicians have done more than their share of perpetuating this back number notion of woman's end and aim. In the minds of many of them, woman's mission is that of swelling doctor's fees. Motherhood has been set up as her only ideal. I protest with all my soul against this deadly old superstition that woman's mission is motherhood and that only. All women are not fit to be mothers, any more than all men are fit to be fathers.

Viewed in the light of law and medicine, woman is a bundle of emotions. Her mistakes and faults are largely traceable to this gushy, terrible emotional temperament. One of her great needs today is to learn how to control it. To this end I invoke the aid of science, law and medicine. Women trust their physicians more than they do their own husbands; much more, indeed, than they do some husbands.

Nervous, hysterical women are the bane of the present day, and the ends to which their emotions lead them are not to be calculated. Physicians know and admit when pinned down that two-thirds of the physical ailments of their women patients come from disturbed and excited minds, and can be treated only through the mind. A woman's physician has the best opportunity in the world for influencing her to cultivate a happy and sensible disposition, and to escape the morbidness which seems to hang

around the woman of to-day and to descend on her at the faintest indication of her willingness to receive it, for no tolerably healthy woman suffers from morbidness, unless she consciously and willingly gives up to it with no effort toward better things.

Physicians, therefore, can do more than most people to aid in the evolution of that noble, lovely womanhood the world is calling for to-day—yea, languishing and dying for.

Medical men know that a large proportion of women's physical ailments are merely the reflex action of diseased emotions.

They should do all in their power to teach woman restraint and self-control.

Lawyers, too, whose opportunities of seeing the morbid, hysterical side of feminine nature, are so numerous, should do what they can to overcome it. They are aware of that strange, morbid tendency to our sex, which manifests itself in the petting of murderers and criminals. What do they do it for? Because of their overgrown, abnormal, emotional temperament, that demands to be constantly fed by morbid excitement. Women lose their heads, and often their lives in a great crisis. In Brooklyn a little while ago a woman had a young man arrested for stealing \$3,500 worth of jewels from her. He wept in court, and did it gracefully, whereupon the gushy, sentimental woman threw her arms around his neck and exclaimed: "There, there, dear, cheer up! Don't cry. You'll come out all right, I am sure."

None but a rabidly unstrung and hysterical woman carries flowers to murderers, and weeps over criminals, and if these evidences of her mild insanity were treated in a properly curt and unfriendly manner by persons in authority, instead of being merely laughed at, and carelessly tolerated; if the woman herself were held up to the cruel and intense

ridicule which her case really demands, she would come to her senses and a transformation at the same time.

Desperate remedies are the only things for diseases of this sort, and the physicians and lawyers of the country have these remedies in their grasp.

But there is a more melancholy and dangerous phase of this over-developed emotional nature. In those awful crises, when keeping our heads saves our lives, and losing our heads loses our lives, woman's lack of self-control shows up most tragically. Two weeks ago at Ocean City, Md., seven persons, one man and six women, were drowned in six feet of water, simply because the women became needlessly frightened, and one after another threw up their hands and went into hysterics.

Insane hospitals are crowded with women who are crazy over love or religion. Sometimes this unbridled emotional temperament prompts woman to the commission of extraordinary and ferocious crimes, though woman is not naturally a criminal.

Up to a very recent date, all woman's education tended to the same end—overcultivation of the emotional nature. The mawkish love songs girls sing to slow music on the piano, the sentimental, sloppy novels they feed their imaginations on by the hundred thousand, deal still and always with the emotions, and emotions only. The result is, women are in some respects like children, giving loose rein to each passing phase of feeling. Like children, they often weep under slight provocation, or no provocation at all. I confess it gives me a weary feeling to see a 200-pound woman crying like a baby.

I believe that woman has a higher moral and spiritual nature than man, given to her for the uplifting and purifying of the race. But it has been sadly obscured and choked out by the overgrowth of the abnormal emotional tempera-

ment. I hope women will always be gentle, tender and refined. But in outburst of emotional fury there is neither gentleness, tenderness nor common sense.

So I am here to-day to ask learned men the world over, each within his own sphere of influence, to aid in teaching women self-control. Let us have womanliness by all means; the more the better; but let us stop hysterics. It can be done by the exercise of the godlike, human will.

Because of her untrained intellect, her overdeveloped emotions, the world has never yet beheld woman at her best estate. With her intellect unfolding like a flower, her hands trained to useful work, free to make of her life what she will, woman will bring to bear on our civilization the higher forces lacking to it to-day. This is woman's real mission. Through her the race will become strong, wise, healthy and beautiful, attaining a power and a glory hitherto seen only in the visions of poets and dreamers.

THE MEDICAL JURISPRUDENCE OF INEBRIETY.

BY T. D. CROTHERS, M. D., OF HARTFORD, CONN.,
Vice-President Medico-Legal Congress, Chairman Department of Inebriety, Editor Journal of Inebriety.

The fact that inebriety has attained such proportions as to demand medico-legal study is not only sad in one point of view, but very hopeful from another standpoint.

Whenever any social question comes into scientific prominence its solution is assured. Scientific agitation means discovery of the causes and remedies of the evil.

Criticism and denial of the conclusions of science is cheering evidence of progress and movement. Inebriety has come into the realm of science and the voices of critics and doubters are heard in the land; but beyond this there is a tremendous movement towards the acquisition of facts, a turning away from theories and demand for real practical knowledge of inebriety and its causes.

Few people realize that the lowest estimate of criminal statistics places the number of crimes directly and indirectly due to alcohol at forty per cent., and fully ten per cent. of all disputed questions in the courts are due to the same causes. If this is true, and half of all the medico-legal questions in the courts turn on the effects of alcohol on the mind and body of the person, we can readily see the importance of a special study of the jurisprudence of inebriety.

Address at opening of Department of Inebriety, Medico-Legal Congress, September 4, 1895.

If only a third of all medico-legal questions are due directly or indirectly to the use of alcohol, it will be clear to every one that this topic requires a special study, and no congress would be complete unless it was taken up separately. While it is true that both the medical and legal knowledge of inebriety and its relations to conduct and motives are in a chaotic state, there has been a great advance recently. A clearing away of delusions and confusions, and an outline differentiation of facts already appears in the horizon.

It is a pleasure to note that the first general study of this subject was made by the Medico-Legal Society in 1887 and 1888 and published in a pamphlet volume. This was the first literature of this topic ever published. In my opinion, it will be considered in the coming century among the most original epoch-making work of this Society. I have not attempted in this section to do more than group some papers, written entirely from each author's point of view, the principal object of which is to keep the subject before the public and give encouragement to a number of students in all parts of the country who are turning to this subject for help in the solution of the many topics that are constantly coming up. I think the necessity of having some clear conception of what the general facts are that apply to these puzzling cases in courts will bring out the need of more exact knowledge that will be keenly appreciated. I hope in the near future to meet this want in a volume covering this field, and giving an outline survey of a great "dark continent" which future explorers will occupy and map out in the coming century.

ALCOHOL AND TOBACCO.

I. N. Quimby, Honorary Vice-President of the Medico-Legal Congress.

Address at Opening of Department of Inebriety.

Delivered September 5th, 1895.

Mr. President and Gentlemen:

Little can be said in five minutes on so important a subject as inebriety. The effects of narcotics on the human race are of vast import, reaching as they do beyond the present to the generations to come.

The effects of alcohol and tobacco—twin relics of barbarism—which rob the blood of its oxygen, perverting nutrition, and generating a poisonous condition in the parent that will and must affect the children.

The scriptural warning in this respect should be carefully heeded, for surely the sins of the father will be visited in the offspring to the third and fourth generation.

We are living in an age of intense activity, in an age of rapid change; old theories and practices are being supplanted by systems based upon and along the line of recent scientific investigation. We are now looking over into another century, and it will not do for this nation, at the close of this, to allow the ignorant and unthinking, and especially the children, not to be taught the true nature of and the destructive effect of alcohol.

It is said you doctors differ about the action of alcoholic narcotics. True. But it should be remembered that men in all professions are divided into three classes—some, like the old book in the library, valuable only for reference; then the monumental, who remain stationary and who

mainly represent past achievements; then the third, the ever active, restless, progressive investigators, who more fully represent the living, active present. The opinion of the former rests mainly on assumption, while the latter bases his opinion on patient and scientific investigation; the facts he arrives at are the truest guides and the safest to follow.

I tremble for the welfare of the people and the safety of this country when I consider the fact that over two billions of dollars are annually spent in the consumption of narcotics by this nation.

About one billion dollars (our annual drink bill) for alcoholic compounds alone, and seven hundred and fifty million dollars more for tobacco; these two items amount to the appalling sum of one billion, seven hundred and fifty million dollars spent annually in poisoning and destroying the blood and tissue of the people. The mingling of this enormous amount of narcotic poisons with cell growth can have but one result, the deterioration and lowering of the normal vitality of the human system, hence the assertion of Nordau may be true that there is now going on a deterioration of the human race in civilized countries, and this is strengthened by the fact that the criminal class, the insane, the inebriate and other defectives are increasing beyond the normal increase of the population. Now, what can be done to prevent or check the further inroads of this alcoholic canker? Many things can be done, but the most important appears to me to be to educate the people, especially the young, and teach them the destructiveness and poisonous effect of all alcoholic poisons. If this is not done, God only knows what the end will be.

These facts being true, what plea or excuse can there be for the existence of laws upholding institutions (saloons), the work of which and the fruit of which results in the de-

struction of the young and unthinking, and the defective classes, who should be especially guarded and protected from temptation or destructive influences? The object of organized society, and of all enacted laws and constitutions in cities, State and nation, is for the preservation of life, order and property, and to mete out equal and exact justice to all.

It is the duty of the State and nation to enact such laws, said Mr. Gladstone, that it makes it hard for a man to do wrong and easy for him to do right; but this is not the fact in reference to the laws governing our license system, which have a tendency to induce him to do wrong and paralyze him to such an extent that it is almost impossible for him to do right.

How very different would be the condition of our nation if in the place of the saloon, schools of instruction were established for the young and thoughtless and weak and feeble-minded.

Is not the State committing a great crime in permitting or establishing these schools (saloons) of infamy, which destroys so many of the weak and thoughtless?

I hope, Mr. President, that this century will not be allowed to close without some universal system of education being established that will counteract the influence of existing laws upholding the license system for the dispensing of alcoholies, which has done so much to cripple the higher and onward march of this republic.

God is not mocked. The irrepressible conflict now inaugurated between drunkenness and sobriety must go on until that righteousness which exalteth a nation shall prevail.

ALCOHOLIC ANÆSTHESIA; A FACTOR IN CRIME.

BY ISAAC N. QUIMBY, M. D.,

Honorary Vice President Medico-Legal Congress.

Mr. President and Gentlemen:—

The fact that alcohol is in such universal use, both in the profession and among the laity, and another fact of equal or greater importance, that its action upon the human organism is not fully, or but little understood or appreciated by the laity or users of spirits, and further, that it is to be feared that the vast majority of the medical profession are not fully alive to the disorganizing influence of this destructive agency, which threatens to subvert human society and to imperil the future of our great American Republic, must be my excuse for bringing this subject before you to-day.

That alcohol is an anæsthetic, an irritant, a paralyzant to the muscular and nervous centres, to the physical and mental powers, is a fact too well established by advanced modern investigators, to be successfully contradicted or controverted.

It is but recently that the true nature and destructive effects of alcohol, through the investigations of Drs. Richardson, Magnan, Norman, Kerr, Alhmon, T. D. Crothers, J. H. Kellogg, N. S. Davis and many others, have been fully demonstrated.

Alcohol should be no longer considered in any of its relations, an innocent liquid, a good creature of God or the

milk of the aged, a stimulant, a true supporter of combustion, a promoter of life or health, a food or an aid to digestion, an element to sustain mental or physical powers, or a constructor of healthy cell growth or tissue, but on the contrary, it should be considered and known by all who persist in using it as a narcotic from the beginning, as a multiplier and promoter of disease, in all its myriad forms, a destroyer of the blood and tissues, a destroyer of health, happiness and character, and through its paralyzing and anæsthetic effect, a promoter and a great factor in crime.

It should be known and clearly stated that alcohol is not only a poison *per se*, and when taken into the system not only injures every organ and tissue, but through its operation has the power of producing a ptomaine or other micro-organism which is quite as destructive as alcohol itself. This ptomaine results from the action of alcohol preventing proper excretion and elimination from the system of poisonous elements. Therefore, the users of spirits carry in their system a dual poison, alcohol and a species of auto-intoxication, caused by alcohol, both or either of which are destructive to physical and mental powers.

Although I regret to say that there are many cleverly scientific men in the profession who still tenaciously cling to the old superstition that alcohol is food, a supporter of combustion, a stimulant, etc., etc., yet it should not be forgotten that some old theories and practices, through the progress of scientific investigation, have been proven now utterly worthless and only to be remembered and respected for their age.

The anæsthetic effects of alcohol may be called nervous in character; that is to say, they are phenomena due to a disturbance emanating from the nervous centres, the centres of the sympathetic or organic nervous system, and

afterwards from the centres of the involuntary nervous organisms. "The impression made," said Dr. Richardson, "through the stomach upon the organic nerves, is exceedingly rapid, being manifested within a few minutes after the alcohol has been taken, and becomes well developed in half an hour."

The first effects, extending through the nervous distribution, to the whole of the vascular system, establish the first stage of alcoholic disturbance, the stage of paresis of the arterial vessels to their extremities. These vessels naturally in a state of proper tension and of resistance to the stroke of the heart, become relaxed under the action of alcohol, as a result of interference with the functions of the organic nerves which follow these vessels to their extremities and attune their muscular contractions so as to permit the necessary quantity of blood to make its course through them. The quantity of blood thrown out by the stroke of the heart is treated with less resistance than is natural, and every part where the blood circulates through the heart, brain and visceral organs, like the stomach, intestines and liver, as well as through the active organs of locomotion, and the whole group of muscles which move the body are similarly affected and weakened in their action. The result is, that action through every part and organ of the body that is capable of action, such as the involuntary muscles, is not sensibly felt, and may be for the moment intensified, and phenomena are induced which are strictly indicative of the over-action. The heart is quickened in its beat, and owing to the quicker flow of blood through itself, the vessels of the surfaces through the body like those of the skin and mucous membranes, are injected with blood, a fact evidenced in the increased redness of the skin, which always appears during this stage. The mind becomes a little exalted, and ideas seem to flow a little

more freely. The larger quantity of warm blood sent into the skin communicates a sensible glow, which feels to the person affected like an increased warmth of the body generally. The feeling of warmth and vigor is deceptive.

The secretions of the different visceral glands are increased, the muscles appear to be endowed with renewed power, and taking all the phenomena experienced into account, it really seems on a superficial view as if during this stage all the vital powers were being carried on with an advanced vitality. The feeling is as pleasant as it is delusive, as cheering as it is deceptive. It is not until we come to measure up the effects of this first stage, with the precision of an observer who is looking at the phenomena without feeling them, that the truth is made manifest. Then it comes out clearly that the over-action felt subjectively is waste without compensation, lost energy, and so lost that in no sense whatever is it regained. Alcohol has crippled, through its irritation, the normal mechanism of the body.

If at the moment when the over-action is at its height, the muscular power be tested with an instrument of precision, it will be found wanting.

By some beautiful experiments of Drs. Ridge, Kellogg and many others, it has been demonstrated that if at this particular time of over-action, the refined involuntary muscular movements be tested, they will be found in the most uncertain condition for action. The sense of delicate touch for balancing weights is absolutely worthless, sensibility of touch is rendered imperfect, the adjustment of the muscles of vision is made uncertain and feeble, so that the act of aiming at a mark is extremely faulty, and the sense of hearing faint sounds is decidedly impaired. These delicate tests when properly applied prove beyond controversy

the anæsthetic and paralyzing effect of alcohol in moderate doses.

Therefore, the above experiments prove conclusively to those looking for light, that alcohol, in what is usually termed small doses, is dangerous and destructive, in that its action so alters the tissues and perverts cell growth as to invariably create a desire for increased and larger doses.

Dr. Cosgrove, Professor of Biology at the Royal College of Surgeons, Ireland, asserts "that the modern observers in the last few years, who had properly attested the effects of alcohol on the special senses, all agree that it was a narcotic *ab initio*, and not as formerly supposed, a stimulant at first. It narcotizes the mind as well as the body, hides from us the truth about ourselves, and makes us satisfied, when we ought to be ashamed."

Forel, of Zurich, teaches that alcoholic intoxication as affecting the nervous system is conspicuous from the first, often after small doses. The excitement following the first glass is the effect of a paralyzation of the complicated checking apparatus, which usually controls instincts, impulse and thoughts. Mentally, alcohol paralyzes, in the first line, the highest, most complicated and finest conceptions of reason and dictates of conscience. He states that chronic alcohol poisoning produces mental paralysis. Psychopaths, or nervous people, are extremely susceptible to the narcotic action of alcohol in disease as well as in health, even when the disease is not of alcoholic origin. Very small doses of alcohol will, in such persons, give rise to various phenomena of alcoholic poisoning. He has seen severe delirium tremens after such comparatively small quantities as $1\frac{1}{2}$ to 2 litres (quarts) of cider daily.

There are many more psychopaths among drunkards than was formerly believed. The poisoning by alcohol and the psychopathy pre-dispose to each other. The poisoned

become psychopathic; and the psychopathic often become the inebriates and beget drunkards, epileptics, idiots and all forms of degenerates.

Strunipell, of Leipzig, compares poisoning by alcohol to poisoning by lead, only lead is slowly absorbed for a long time, without any apparent injurious effects; alcohol, like lead, is cumulative, and hence with some individuals will account for their explosive periods of inebriety; spirits break up nerve centres and derange cell activities and functions to such an extent that recovery rarely ever follows.

This is apparent through the Gold cure and various other cures which have recently been so lavishly lauded, but have not been successful. Many who have been treated have not profited by the treatment, and many more have returned like the scriptural sow to her wallowing in the mire, until to-day the land is filled with quasi-cured inebriates, the victims of this empiric quackery, whose last state is far worse than the first. The poison of alcohol has so deranged and destroyed their tissues and nerve centres, that they seem no longer in a salvable condition.

Alcoholism in France is on the increase, with disastrous results, and it is now proposed to re-establish the laws of 1865, which considered drunkenness a form of insanity, and demanded that the victim should be confined in some asylum and hospital until recovery followed. Here the palsied condition was recognized and treated.

The growth of inebriety and the alarming increase of this class of defectives, call loudly for public attention in their behalf. If the State licenses the saloon, the most destructive agent in modern society, why should she not also provide for the legitimate product of the saloon the degenerate drunkards, and use license fees for the erection of inebriate insane asylums? And why should not laws be passed legalizing compulsory commitment to such institu-

tions of those who have lost self-control and need the sheltering care and charity of the State, which not only has consented to, but has also been a *particeps criminis* in their destruction?

Our present method of treating the victims of inebriety is barbarous in the extreme, if it be not positively criminal. The drunkard, weakened in every power, needs not so much consignment to a cell with common criminals, to be further demoralized, as to a hospital for healing, where the State, under proper medical advice, should legally incarcerate and hold him under treatment until he has been restored to normal health and power.

The regular appearance of the vast army of drunkards in our police courts, and the heartless and ignorant treatment they receive, is one of the foulest blots upon our boasted civilization. Let the State arise in her might for the legal protection and healing of her weak children, whose legal destruction she has authorized in the American saloons. The State has need to change her antiquated laws and methods for those more in sympathy with the results of modern scientific investigation and thus wisely use the right arm of her power in the cause of humanity and for the liberation of the slaves whose chains she has helped to forge.

Legnean and Lanceraux assert that the increase of alcoholism increases tuberculosis (consumption), and that it is regarded as a fact beyond doubt, that the increase of the use of alcohol has a direct relation to the increase of consumption, particularly in men. Of 10,681 deaths from this disease registered in Paris in 1893, 6,553 were men and 4,128 were women. These figures show that spirit drinking is more prevalent among the women in France than in the United States.

As a prophylactic measure increased taxation of wine

shops and drinking places has been generally advocated with restriction of the number of drinking places, which in Paris alone amounts to about 35,000.

These numerous wine shops increase many forms of disease and multiply crime about 50 per cent. These facts are producing alarm among legislators, and the most stringent measures of repression are proposed ; particularly to diminish the wine shops and confine the victims, for treatment, who persist in drinking.

But now, since the action of alcohol on the human system is better understood in the light of modern science how ridiculous appear all repressive or preventive laws against the vice of spirits on one hand, whilst on the other hand, laws are enacted permitting the exposure for sale of alcoholic compounds by the Government.

Degrain, chief physician of a Paris asylum, maintains that among many causes of depopulation in France, through mortality, alcoholism has produced a most baleful influence. Hitherto France has been considered a sober nation, but this is not now the case, as in 1892 nearly 40,000,000 gallons of alcohol were consumed. The author, in order to show clearly the effects of this vast consumption of spirits, has collected statistics of 215 alcoholic families, represented by 819 descendants with the following results:

37 premature births.

16 still born.

121 premature deaths (general convulsions).

38 cases physical debility.

55 cases tuberculosis.

145 cases mental derangements, in all 412.

The remainder comprised a large number of epileptics, hysterics, idiots, etc. It is unnecessary to pursue statistics further to show that alcohol not only destroys families, but is causing the nations to commit suicide. It is esti-

mated that over 50 per cent. of the births in France are illegitimate. According to statistics from 50 to 75 per cent. of all the crime committed in the United States is done by persons while under the influence of alcohol. The reason for this is plain, the person committing the crime is anæsthetized, his brain is paralyzed, he cannot think or act aright. His normal and finer sense of discrimination and volition is impaired.

I turn from these great facts which are so clear to all observing persons, to the practical clinical side that comes into view in every community. How far does the anæsthetic effect of spirits appear in the next generation? I remarked to a gentleman once that alcohol should be termed the great breeder and crime promoter of the universe. He replied, somewhat boastfully, "Why, doctor, I have drunk whiskey nearly every day for forty years; am now 65 years old, yet never was drunk in my life, or committed a wrong while under the influence of liquor, and have a good constitution yet."

This man told partly the truth, but to get at the whole truth or crime you will have to study the history of his children, of whom he had four.

His oldest, a young man of 25, of irregular habits and of questionable character.

The second, a young lady of 22, of good health.

The third, a young lady of 18, somewhat brilliant, but epileptic, and in poor health.

The fourth, another young lady, of 16, with spinal curvature, and exceedingly nervous, irritable and troublesome with general poor health.

Now, did the father's moderate, but continuous use of alcoholics and insidious palsy, have anything to do with the sadly imperfect organization and development of his children?

The above facts may be duplicated many times, in almost any community. Run over the families of your acquaintances in which either father, mother, or both are moderate and constant drinkers, and observe for a number of years the health and actions of their children, and it will be seen that from 50 to 75 per cent. will be defective.

These facts and diseased conditions of the children will never be observed in the history of thoroughly temperate and healthy parents.

The superintendent of a hospital for children in England found that only 45 per cent. of those whose parents used alcoholic liquors had habitually good constitutions, while from 80 to 85 per cent. of the children who had abstemious or temperate parents had sound bodies. Of the children of the inebriates only 6 per cent. were healthy.

Can any sensible man or woman say that there is no crime in the drinking of alcoholic liquors? Or that they can drink and take the consequences? Or must their children suffer and take the consequences of crime committed through the defective constitution transmitted to them by their parents?

From 75 to 80 per cent. of crime is caused by the use of alcoholic liquors, and more than 50 per cent. of poverty and wretchedness is caused by the use of spirits.

Death rates and diseases are doubled in every drinking community. In communities where liquors are most consumed, jails, almshouses and prisons, multiply, ignorance prevails, and crime increases.

Statistics have shown over and over again that the monomaniac, dipsomaniac, the idiot, the epileptic, the inebriate, and the feeble-minded, etc., are increasing at a greater ratio than the normal increase of the population.

The above facts being true, what excuse can there be to the healthy and unbiased mind for the exhibit of alcoholic

liquors in every hamlet, town and city of our country? For it is the weak and feeble-minded and this class of defectives which largely compose the criminal class, who are mainly the patrons and supporters of the wine shops.

It has been strongly urged by Drs. Crothers, Strumpell and others with much reason, that most of the users of spirits, especially those who use it to drunkenness, are intellectually defective. That the nervous centres have been injured or anæsthetized to such an extent that they can not think or act aright, especially when they are overtaken by misfortune, loss of money, relatives or friends, and therefore, in this condition are prepared for any deed.

The conclusion which I would urge with emphasis is: alcohol is a paralyzant and a dangerously destructive agent and the victim has not full possession of his faculties. He is not sound and normal. He is mentally crippled. He can not exercise the full powers of his brain because it is palsied and under a mask. His perception and powers of reason are faulty. This can be measured and demonstrated by instruments of precision, and is no longer theory or opinion, but an absolute clinical fact.

From this we can date crime and all its associated evils with the same certainty that oaks will spring from acorns.

Also from this point of view the whole field of medical jurisprudence stretches out clearly, and all its confused theories are merged into ranges of tenable facts that can be seen and prevented on the same plane as the germs of typhoid and typhus are removed, or treated.



PORTRAITS OF MEDICO-LEGAL JURISTS AND MEDICAL MEN.

JUDGE O. H. HORTON,
Chicago, Ill.

JUDGE WILLIAM H. STEWART,
Columbus, Ohio.

PROF. HENRY A. MOTT, JR.,
New York City.

JUDGE LOCKE E. HOUSTON,
Aberdeen, Miss.

PROF. VICTOR C. VAUGHAN,
Ann Arbor, Mich.

JUDGE JOHN H. McCARTY,
New York City.

HON. GEORGE W. TYLER,
Belton, Texas.

RICHARD DEWEY, M. D.,
Supt. State Insane Hospital,
Kankakee, Ills.

L. L. MIAL, M. D.,
Late Asst. Physician N. J. State Hospital
Morris Plains, New York City.

W. S. WATSON, M. D.,
River View Home,
Fishkill, N. Y.

PROF. CH. H. HUGHES,
St. Louis, Mo.

U. O. B. WINGATE, M. D.,
Health Commissioner, Milwaukee, Wis.

HYPNOTISM AND CRIME,

BY W. XAVIER SUDDUTH, A. M., M. D. CHICAGO.

The wide difference of opinion regarding the relationship of hypnotism and crime existing in this country and Europe has long been a matter of comment. Prominent authorities on each side of the water, with but few exceptions, reject the idea of the possibility of successful criminal suggestion under ordinary circumstances, while many European writers freely admit and deplore the supposed possible misuse of this new-old force for criminal ends, although they cite no well authenticated cases to prove their fears. The latest effusion (no other word will express the character of the article) upon the subject is a purported interview with Dr. Luys, of Paris, who is made to say "The dangers are simply appalling and I see no way in which they can be mitigated although I have studied faithfully. Within a year hypnotism has three times appeared in evidence in murder trials in Europe—once in France, once in Germany and once in Belgium, In all three trials the fact that hypnotism might have been used for the commission of the crime, was well established, whether or not it was proved that it actually was used. In England it has thrice appeared, once in a case of burglary—jewel robbery by a young woman of family and position, and here the case was well established—once in a case of criminal outrage, and once in a case of forgery and misappropriation of funds. In America it has been even more persistent in its determination to show that a new element has been introduced into our social life—a

lawless, uncontrollable element, working horror so secretly that to expose is hopeless." Here the interviewer cited the cases of the murder of Katherine Ging near Minneapolis, the ruin of Mabel Briggs and Alma Leonard at Eau Claire, Wis., the celebrated Kalb case at Columbus, Ohio, (I am quoting the reporter's phraseology) the murder of Thomas Patton by Tom. MacDonald, who was at the time under the hypnotic influence of Anderson Gray, at Conway, Kansas, and who so clearly established this influence that he was acquitted, although he admitted doing the killing, while Gray was convicted and condemned.

It will be observed that the opinion of Dr. Luys regarding the connection of hypnosis to the alleged crime is strengthened in a direct ratio with the increase of distance between the place where the crime was committed and his place of residence. It is a case "where distance lends" positiveness "to the view." In the three cases related as occurring on the continent he is made to say, "The fact that hypnotism might have been used for the commission of crime was well established, whether or not it was proved that it was used." Then the scene shifts across the channel and there "the case was well established." It, however, remains for America, proud America to demonstrate the terrible possibilities of this "lawless, uncontrollable element, working so secretly that to expose is hopeless." Let us see upon what he bases his assertion. Of the "celebrated" Kalb case of Columbus, Ohio, I never heard and the Briggs-Pickens case has long ago been "Nolled." The self-confessed murderer of Katherine Ging is serving a twelve years' sentence and the principal in the case, Harry Hayward, failing in an appeal to the Supreme Court to set aside a death sentence has expiated his crime upon the gallows. The case of Gray-Patton and MacDonald when run down was found not to have hypnotism in it.

A detailed report of these cases is as follows: In regard to the Hayward-Blixt-Ging case I am especially prepared to speak as I resided in Minneapolis at the time of the murder and attended the trial in order to make a psychological study of the principal in the case. Hayward undoubtedly possessed a strong influence over Blixt, but the latter never claimed it was hypnotic. Nor was the plea entered in defense; in fact, he made no defense, but plead guilty and threw himself on the mercy of the court. He said that Hayward first induced him to set fire to a barn, paying him therefore a certain sum, then he offered him two thousand five hundred dollars to kill Miss Ging and finally, when he found that his courage was failing, drugged him with whiskey in order to nerve him up to doing the deed. It is true that a self-constituted attorney for Blixt did give it out that he intended to set up a hypnotic theory in defense, but he never had the chance as Blixt strenuously held to his first confession and himself denied any hypnotic influence whatsoever. A traveling hypnotist was, however, called in to see Blixt and while he did not try to hypnotize him he expressed the opinion that he could be hypnotized. So this case falls to the ground.

Dr. H. A. Parkyn, Chicago, was in the town where occurred the famous Briggs-Pickens case, which has now passed into history as one of the greatest farces ever produced in this country. In answer to the question as to how much truth there was in the claim set up by the girl in the case he said: "This Eau Claire case was nothing more or less than one of hysteria, unless, as some Eau Claire folks intimate, it is a case of original sin. Edna Mable Briggs who, in the parlance of the telegraphic bulletins, is a young woman of rare 'culture and beauty,' is a rather ungainly and plain looking girl, subject to hysteria. She was in the habit of playing on the guitar in company

with young Assigal Pickens, a fast friend of hers. When she and her girl companion, Alma Leonard, first returned after their two days' absence from town they said nothing about hypnotic influence. But when people began to talk about them and shun them the girls found it necessary to hunt up an excuse for their absence from the city and to account for their presence in the place where they were found. The Briggs girl knew something about hypnotism, she is shrewd, sentimental and hysterical. She may even have imagined the commission of a crime during a hysterical moment, or she may have concocted the story to screen her part in the case. There is no evidence of any hypnotic influence in the case, while there are scores of facts pointing to it as a trumped up charge. No one in Eau Claire, who is acquainted with the facts, believes that hypnotism had anything to do with the escapade."

The case hung fire in the courts for a considerable time the prosecuting attorney not being ready to bring suit and also apparently unwilling to dismiss the case. In the meantime an election occurred and he failed of re-election; just how much this fiasco had to do with the case I am unable to state, at any rate one of the first acts of his successor was to *Nolle* the cases and thus ends number two.

In the third case, that of Gray-MacDonald, which the interviewer says, "went to a decision," the word hypnotism never occurred in the trial or appeared in the brief, except to deny its relation to the case, as will be seen by a perusal of an accompanying letter and abstract of brief.

WELLINGTON CO., KAS., April 25, 1895.

My Dear Sir:—I am in receipt of your letter of the 23rd inst. The word hypnotism was not used in the case of the State vs. Anderson Gray. I have issued no manifesto, I have tried to answer all letters (which have been numerous), and have at all times said that the hypnotism story was a fake; also the statement that Gray had been granted a new trial is untrue. His case was argued at Topeka and brief submitted on March 7th and an opinion will probably be handed down about April 1st. (the

decision has since been given to the public and has no hypnotism in it). I have mailed you under separate cover our brief which will give you a short statement of the fact by which you will see there is no hypnotism.

Yours truly,

[Signed] H. L. WOODS, County Attorney.

The accompanying brief above referred to submitted to the Supreme Court by the Attorney General Dawes and County Attorney Woods makes no pretense of charging Gray with hypnotic influence, but charges him with being principal in the murder, and accessory both before and after the fact. The brief relates how Gray, the defendant, and Patton, the murdered man, were enemies; how Gray employed MacDonald and wife to work upon his farm; how Gray stirred up a quarrel between Patton and MacDonald by lying to both of them, and alleging how each had threatened and libeled the other; how Gray armed MacDonald with a rifle and had him practice at targets to get ready for Patton's threatened visit, secured an ambush for MacDonald and promised to employ an attorney and provide money for defense and escape. In short, Gray's part throughout was that of accessory and principal and as such he was convicted by the jury. The only reference to hypnotism in the brief is as follows: "A sensational newspaper reporter startled the world by reporting that in this case Gray had hypnotized McDonald, and that hypnotism was the defense pleaded and allowed and that upon that theory the case tried by court and jury an absolutely false report and purely a product of a most imaginary brain."

'It would be interesting to follow up the other cases in the article in order to clinch the argument; it is not, however, necessary, as the writer of the article does not lay particular stress upon them but depends upon his American cases for his opinion, therefore we are warranted in the inference that they also are of the same material "as constitute

dreams " and are of equal unreliability with the American case cited.

So much for opinions based upon cases reputed to have happened in real life. The difference of opinion, however is based upon laboratory experiences, in the main, for no operator has, as yet, published any actual criminal cases as the result of his suggestions, although many laboratory cases have been reported. Let us see whether or not it is possible to ascertain the cause of the discrepancy in belief (for that is all it amounts to) alleged regarding the criminal possibilities to lie in hypnosis.

In order to intelligently discuss the subject, it is essential that we first inquire briefly into the nature of hypnosis. In its simpler manifestation it is a modified form of natural sleep, artificially induced, but in its more complex form it compares to the abnormal condition of natural sleep known as somnambulism. It is also the natural precursor of ordinary sleep. This is proven by the fact that subjects after being thoroughly hypnotized, if left to themselves even for a brief space of time will pass into a natural sleep, from which they awaken as from a nap with all the expressions of drowsiness and temporary loss of memory, as to surroundings and events, that is evidenced by persons who have slept under ordinary circumstances.

This fact necessitates that, in order to keep in touch with his subject, the operator must keep up a continual line of suggestion, otherwise he loses control of the subject. Notwithstanding his apparent loss of consciousness a person in the hypnotic state is perfectly conscious of his condition. He is possessed of what is termed a double or dual consciousness. He knows full well that he is doing the bid of another but so long as the suggested acts do not shock his sense of propriety and come within the bounds of physical possibility he will attempt their performance

because he realizes that he is playing a part in an experiment and is anxious to add his unite to the sum total of knowledge upon the subject, nevertheless he is as free a moral agent to follow the dictates of conscience as he is in the waking state. He obeys only in so far as the suggested acts do not antagouize the moral standard he has set up for himself; any suggestions that seriously affront his moral nature, if persisted in, will cause him to awaken. Criminal or immoral suggestions made to a moral subject meet the auto-suggestion arising from his own conscience and confusion is created in his mind. His indecision is only too apparent in the helpless expression on his face and his incapacity to originate any line of procedure in the premises and simply remains passive, that is, does nothing.

While it is true that post-hypnotic suggestions can be given to a susceptible subject in the hypnotic state to be carried out at some future time yet the suggested acts or act must be in harmony with his own idea at the time they are given, as any suggestion given in the hypnotic state that would be repugnant to the subject in the waking state would invariably fail of consummation.

The question of successful hypnotic criminal suggestion turns therefore on a point of morals, even as it does in the waking state, and with a lessened possibility of success for the reason that in the hypnotic state a subject seems to lose to a greater or less degree his sense of material relationship, and cupidity and passion are less easily appealed to. The mind is passive, not active and the operator must supply the motive and the physical incentive as well, even when the suggested act does not cross the subject's ideas of right it many times fails of consummation by reason of this same law of inertia. The tendency to pass into a condition of natural sleep is ever present and the close relationship to natural sleep is a point of great interest.

Professor James of Harvard says, "that we all probably pass through the hypnotic state in going to sleep every night." To define hypnotism simply as "induced sleep" is, however, to limit the condition; it is that and more. It is a condition in which the individual is oblivious to outward surroundings, in the main, but with quickened power of susceptibility to suggestions from the hypnotizer. It is a concentration of the mind of the individual upon some one line of thought or phenomena to the exclusion of all others. It is not essential that the subject should present all phenomena of sleep; the eyes may remain open and the person be in a complete hypnotic state, obey all direct commands with precision and yet be wholly unconscious as to what has happened when he is roused to consciousness. The mind may be compared to an automatic, self-registering machine that receives ideas, tabulates and carries out motor-impulses that are suggested to it through the senses: For the sensorium to receive and apply the suggestion, however, the latter must be of a character that is within the understanding of the individual. To give commands in a foreign tongue is to invite failure and the suggestion of thoughts to a hypnotic subject foreign to his ideas of right and wrong will meet with equally negative results.

Constant repetition may, as in all things, educate the individual in the premises but as we have said before it is very difficult to overcome pre-conceived ideas. The personality of the individual is not materially altered in hypnosis; it is only modified, partially dominated, if you please, by the will of another for the time being, but only so far as his own ideas are not seriously crossed. Any strong countercurrent of ideas will break the relationship and arouse the individual from the hypnotic state. Faith in the ability and the good intentions of the operator is an

essential element in hypnotism and the sensational stories that go the rounds of cheap literature regarding theft, arson and murder committed in the hypnotic state, by reason of the state, are the creations of disease or ignorant minds as we have shown in the beginning of this article. Unless a person is any or all these at heart, he can no more be made so in the hypnotic than he can in the waking state.

In considering this subject it must be remembered that there are people in this world who are negatively honest, virtuous and generally well-behaved, people who are good because they have never been tempted to be bad. Such persons tempted either in the waking or hypnotic state might or would fall simply because they had no indwelling force of character. Such persons are only safe in a cloister or behind prison bars.

In discussing the possibility of successful criminal suggestion, Mr. Thomas J. Hudson, Washington, D. C., says in the *New York Medical Journal*, of January 26th, 1895 : "It is purely a question of moral character. A criminal hypnotist in control of a criminal subject could undoubtedly procure the commission of a crime under exceptionally favorable circumstances, but a criminal hypnotist would simply waste his energies in hypnotizing a criminal subject ; for a man of that character could without doubt be just as easily manipulated in his normal condition. Be that as it may the fact remains that when a man sets up hypnotism as a defense in a criminal trial he proclaims himself a criminal character."

I would go somewhat farther and say that, given a criminal operator and a criminal subject or even a subject with no fixed moral principles and criminal suggestion is possible in the hypnotic state as also is the post-hypnotic suggestion of criminal acts. But while it is possible it is

not feasible because with such subjects nothing is gained as suggestions could be better given in the waking state when the individual is possessed of all his reasoning powers and by conference can assist in planning the details necessary for the successful carrying out of the crime.

The question of responsibility is purely a hypothetical one as no cases of criminal hypnotic suggestion have come up for adjudication in this country, nevertheless having admitted the possibility of successful criminal suggestion it devolves upon us to briefly discuss the question from its medico-legal aspect. In doing so I have taken the liberty of quoting several prominent jurists upon this point. Mr. Hudson above referred to says, "The first legal question that arises is how far ought hypnotism to be admitted as a defense when it is pleaded? My answer is that it should never, under any circumstances be admitted as a defense for one who has clearly proved to have committed the crime. Drunkenness cannot be used as a defense and there is evidently less reason for admitting hypnotism. In the one case a good man may be so far crazed from liquor as to become, in fact, utterly irresponsible, yet the fact is not admitted as a defense on the ground that he voluntarily rendered himself irresponsible by getting intoxicated. The hypnotic subject should be held to the same rule and for the same reason; for no man can be hypnotized against his will. This is practically the universal testimony of all scientific writers on the subject. He voluntarily places himself in the power of a hypnotist whom he more than probably knows to be a criminal character, and he should be held to the same accountability for the results as if he had voluntarily 'placed an enemy in his mouth to steal away his brains.' Moreover, as I have previously shown, the hypnotized subject will never

commit a crime in that state that he would not commit in his normal condition."

Judge Seagrave Smith, Minneapolis, who presided at the Hayward trial has this to say: "As regards hypnotism, all I have to say is that, as I now understand it—from what study I have made—I do not think that hypnotism should ever stand as an excuse for the commission of crime. I have studied the question considerably, and while I do not pretend to call it wholly fraudulent or anything of the kind, yet I do not consider it a proper or a fitting defense in a criminal action."

Hon. C. D. O'Brien, St. Paul, Minn., says, "So far, the law has not recognized the existence of any such condition; that is, it has not been satisfactorily proven in any court of justice, to my knowledge, that either the operator possesses the alleged power, or that the subject can be entirely subordinated to the will of the operator to the extent that it is claimed that he can—that is, so as to produce an abnormal condition in which the individuality of the subject is completely wiped out, and he or she become the mere instrument of the desires or wishes of the operator. Now, I say, the law does not recognize the existence of that condition; therefore, up to this time, there is, so far as I know, no adjudicated case which holds that a defense based upon a theory that a criminal act was committed by one because of and while under the power of hypnotic influence can be sustained. I very much doubt whether such a defense ever will be sustained, because I do not think the law will ever recognize the hypnotic condition as a defense to a criminal act committed by one who claims to be in that state when so committing the crime."

Hon. Charles E. Flandrau, St. Paul, Minn., says: "As to whether the plea of having been under hypnotic influence at the time of the commission of a crime would be

received by a court as a defense, all I can say is to quote a very familiar principle in criminal law, which is that intention is the gist of all crime. No one can be guilty of a crime unless he perpetrated it knowingly. Responsibility for crime depends wholly upon intention. A familiar instance of this principle is the plea of insanity. If the party is insane when the act is committed, he is not himself, is not impelled by his own reason, but by some delusion that clouds his own mind and destroys his will. So he is not held responsible for his act."

On the question of admission of testimony obtained under hypnotic influence Mr. O'Brien, before quoted, has this to say: "The entire value of a confession rests upon the circumstances under which it is obtained. It must be voluntary, and not induced by undue influence of any kind. The mind of the party confessing must not be overcome by any influence, such as threats, or hope of reward or of escaping punishment. It therefore follows that a confession obtained from a person who, it is conceded, was at the time unable to control his own faculties, would be worthless, nor would a person under what is called hypnotic influence be permitted to testify in a court of common law while in that condition, if such conditions were known to the court. If a person suffering under temporary or permanent aberration of mind is disqualified as a witness, so would a person be who was under the influence either of narcotics or intoxicants to such an extent as to affect his judgment. If you can assume that a person can be placed under hypnotic influence and the law should recognize it, it would certainly disqualify that person from testifying in that condition."

On this point Mr. Hudson, also previously quoted, says: "From a legal standpoint this is a most intensely absurd proposition. Not one of the conditions which give value

to human testimony would be present. In the first place, he could not be punished for perjury if he swore falsely; and the instinct of self-preservation would cause him to swear falsely if the truth would militate against him. Moreover, being in a hypnotic state, he would be amenable to control by suggestion, and a cross-examination would utterly confuse him. A cross-examination by a competent lawyer consists largely of artful suggestions in the form of leading questions; and a hypnotized witness would necessarily either be controlled by them or restored to normal consciousness by a conflict of suggestions. Clearly a hypnotized subject can have no legitimate standing as a witness in a court of justice." Mr. Hudson continuing says:

"The next legal question is as to the admissibility of the testimony of the alleged hypnotic subject in a criminal prosecution of the alleged hypnotist as an accessory before the fact. It is difficult to imagine any legal grounds for the admission of his testimony at all; for if it is true that he was so deeply hypnotized as to be an irresponsible agent in the hands of the hypnotist, he was necessarily in a state that would preclude the possibility of his having any definite recollection of what happened. Indeed, his whole testimony would be open to the suspicion that he was merely reciting the details of a subjective hallucination. In that case his testimony would be literally 'of such stuff as dreams are made of'—the 'baseless fabric of a vision.' Obviously it could have no more standing in a court of justice than an alleged dream. Consequently, if it is clearly proved that he was hypnotized, his own testimony should be excluded as against the other party concerning what happened during the period of his irresponsibility."

As regards the question raised by Mr. Hudson "that a man who sets up hypnotism as a defense in a criminal trial proclaims himself a criminal character," I shall have to demur and hold with Judge Flandrau that in order to determine his guilt it must be shown that he entered into the compact with criminal intent before he can be adjudged a criminal character. He might be simply immoral, belonging to the class cited where the individuals constituting it, while not criminal, yet were not possessed of any

fixed moral sentiments, hence might be influenced either in the waking or hypnotic state.

Many years' experience with use of hypnotism in laboratory and clinic, upon widely differing classes of subjects, makes me feel safe in saying that under all conditions when the subject is capable of carrying out a criminal suggestion he is sufficiently conscious, of his own volition to decide whether he will carry out the suggestion or not. This being the case and he goes ahead and performs the act then he comes under the law of intent and becomes "*particeps criminis*," an "accessory before and after the fact" and should be held equally guilty with the instigator of the crime. A criminal he surely is but hardly a "criminal character" in the sense in which I have been accustomed to use the term.

Dr. William Lee Howard, of Baltimore, says that "in his experiments he has drawn the line at seduction, arson and murder." I have gone one step farther and repeatedly attempted to induce subjects to make felonious attacks on persons, under the most aggravating circumstances, without securing the least indication of obedience. For instance, while my subjects would stab right and left with paper daggers yet when a real dagger was placed within their hands they have invariably refused to use it even when suffering the greatest provocation. I account for this on the ground that a person in the active hypnotic state possesses a dual existence and is perfectly conscious of what he is doing. In most cases he will carry out the expressed wish of the operator, provided it does not affront his sense of propriety or seriously cross his ideas of right and wrong. Many a time have I heard a subject, after coming out of the hypnotic state, remark, "Ah! I knew what I was doing all the time and could have resisted had I wanted to." "Well," I have often replied, "why did

you do thus and so then?" "Oh! there was no harm in it and I did it simply to please you."

These, so-called laboratory tests, however, are not such conclusive examples of the peculiar mental state of the subject as the cases that occur in actual practise. For several years I have made use of hypnotism in surgical practise and my experience in this direction leads me to the conclusion that hypnosis is a mental state rather than a physical condition, such, for instance, as ether and chloroform narcosis. Time and again have I had patients, who responded to all the tests of hypnotic anaesthesia before the operation, when called upon to face the actual ordeal came out of the hypnotic state, the fear of the operation being a stronger suggestion than that of the operator, consequently the subject awakened, obedient to the law of self-preservation which is never set aside even in the profoundest hypnotic state.

As to the possibility of seduction in the hypnotic state, I must again differ with Dr. Howard and others who hold the view of danger in this line and assert, even as I have stated, regarding the possibility of successful criminal suggestion, that it also turns upon a point of morals. I base my views upon the statements that hypnosis is primarily a mental state and not a physical condition and that the individual being possessed of a dual consciousness in the hypnotic state is therefore cognizant of his environment and is able to defend himself. In a susceptible subject, not adverse to the act, a courtesan for instance, I fully believe that sexual intercourse could be had in the hypnotic state and complete loss of memory as to the act be secured on awakening, provided amnesia had been suggested during the hypnotic state. Not only this, but I also believe that the deception might be carried further and the subject be made to see, in imagination, a perfectly innocent person in

her room and lay the act upon him. Anyone who would set up a claim of seduction under hypnosis, in my mind, would proclaim herself as an immoral person and the claim would have to stand upon the age of consent laws of the particular state in which she resided. In other words, hypnosis would be no plea, because a truly virtuous woman would resent the least approach toward familiarity in the hypnotic state, even as she would in the waking condition and if the immoral suggestions were persisted in would awaken and woe betide the man who had the temerity to attempt improper advances.

Results, however, depend upon the individual and the conditions under which hypnosis is induced. Perfectly successful cases of surgical operations have been performed upon virtuous women, under hypnosis, that involved exposure of the person, and even operations upon the generative organs themselves. In these cases the operation was for the acknowledged good of the subject and was performed under circumstances calculated to secure her confidence, otherwise it would have been a failure.

The laboratory tests made in this direction in Europe, and on which foreign writers base their belief of the possible immoral use to be made of hypnosis, are not to be relied upon, for the reason that they are made upon the peasant class which is notorious for its lack of virtue. The wide difference in the social position of the subjects operated upon in this country and Europe will undoubtedly account for the different results obtained and the consequent difference in opinion existing in the two countries.

In conclusion let me reiterate my basal proposition: Given a criminal or immoral subject and a hypnotist of like character and criminal or immoral results may be obtained. But shall a natural force of great potency be condemned simply because it may be occasionally misused?

SEXUAL INVERSION :

WITH AN ANALYSIS OF THIRTY-THREE NEW CASES.

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By "sexual inversion" I mean that variety of sexual perversion which is sometimes, rather awkwardly, called "contrary sexual feeling," and which involves sexual attraction to individuals of the same sex. It is a condition of considerable interest and importance, both scientific and social, and it is more common than is sometimes supposed. I have been able to observe, or to obtain histories of, thirty-three persons exhibiting this anomaly—a larger number, be it observed than the total number of recorded cases, some ten years ago, according to Prof. Ball. My cases were not gathered from my medical practice, nor by the aid of police officials. In this respect they differ from the groups of invertes presented by previous observers who have consequently been led to overestimate the morbid or vicious elements in such cases. My histories will be published in detail in a forthcoming book on Sexual Inversion, written in collaboration with the late John Addington Symonds, who had studied various historical and psychological aspects of this matter. At the present time I simply wish to present to this Congress a very summary analysis of my cases, and then to discuss briefly the nature and causes of sexual inversion.

Heredity.—It is always difficult to deal securely with the significance of heredity, or even to obtain a definite basis of fact. I have not excepted this difficulty, for in most of my cases I had little opportunity of cross-examining the subjects whose histories I have obtained. Still the facts, so far as they emerge, are significant enough. I have some record of heredity in twenty-nine of my cases. Of these not less than nine have reason to believe that other cases of inversion have occurred in their families, in one case on both sides. Twelve, so far as can be ascertained, belong to reasonably healthy families, though minute examination might reduce the number of these. In nine cases there is more or less frequency of morbidity or abnormality—eccentricity, alcoholism, neurasthenia, nervous disease—on one or both sides, in addition to inversion or apart from it. I am fairly certain that thorough investigation would increase the proportion of cases with morbid heredity, but this increase would chiefly be obtained by bringing minor abnormalities to the front, and it would then have to be shown how far the families of average persons are free from such taint. I believe that a fairly large proportion of ordinary families are fairly free, but it seems probable that the families to which the inverted belong do not usually possess such profound signs of nervous degeneration as we were once led to suppose. What we vaguely call “eccentricity” is common among them; insanity is much rarer.

General Health.—It is possible to speak with more certainty of the individual's health than of that of his family. Of the thirty-three cases, twenty-three—or rather more than two-thirds—may be said to enjoy good, sometimes even very good health, though occasionally there is some slight qualification to be made. In nine cases the health is delicate or at best only fair; in these cases there is

sometimes a tendency to consumption, and often marked neurasthenia and a more or less unbalanced temperament. The two remaining cases are decidedly morbid, and one has had insane delusions. At least nine who are included among those having either good or fair health may be described as of extremely nervous temperament, and usually so describe themselves; at least six of them combine great physical and especially, mental, energy with this nervousness. All these may be said to be of neurotic temperament. In the whole sixteen, or nearly half, of these inverted persons are passing through life in an unimpaired state of health which enables them to do at least their fair share of work in the world, and in a considerable proportion of my cases that work is of high intellectual value.

First Appearance of the Inverted Instinct.—Out of thirty cases, in three the instinct veered round to the same sex in adult age; in all of these there had been a love disappointment with a woman; no other cause can be assigned for the transition, but it is noteworthy that in two of these cases the sexual instinct is undeveloped or morbidly weak, while the third individual is of weak physique. In the other twenty-seven cases the abnormal instinct began in early life, without previous attraction to the opposite sex. In ten of these it dates from puberty, usually appearing at school, and in the remaining seventeen it began some years before puberty. It must not, however, be supposed that these early manifestations of the inverted instinct were always, or ever usually, of a specifically physical character. The sexual precocity of inverts remains, however, very marked, and this precocity seems to be a fact of considerable significance, especially when we remember that at an early age the sexual instinct seems normally to be comparatively undifferentiated. It must be added that a precocious sexual activity is likely to remain feeble and that a

feeble sexual function adapts itself most easily to inverted practices. In a considerable proportion of my cases I have reason to believe that there is marked hyperaesthesia or irritable weakness, often simulating strength. This temperament is frequently accompanied by emotional tendencies to affection and self-sacrifice.

The sexual precocity of inverts has been pointed out by previous observers, but I wish to emphasize its importance because I think it has much to do with moulding the character of the average invert. Many authorities have much of self-abuse in this connection but I should be inclined to give it a very subordinate place. It is true that while at least five of my cases have never at any time indulged in this habit, eighteen have given way to it, at all events occasionally or at some period in their lives. It must, however, be remembered that the same may be said of a very large proportion of the general population, and also that the invert suffers from special difficulties in gratifying his abnormal instinct.

Exciting Causes.—In eleven of my cases, or one third, there is reason to believe that some event or special environment in early life had more or less influence in turning the sexual instinct into abnormal channels, or in calling out a latent tendency. In three of these cases there was a disappointment in normal love which, acting upon a predisposed organism, produced a profound nervous and emotional shock. In four there was seduction by an older person, though in two of these there was already a well-marked predisposition. In four other cases, example, usually at school, seems to have had some influence. It is noteworthy that in few or none of my cases is it possible to trace the influence of suggestion, which has been much emphasized as a factor in causation by Schrenck-Notzing,

and I am therefore somewhat sceptical as to the importance of that factor.

Methods of Sexual Relationship.—Although the exact method in which an inverted instinct finds satisfaction may sometimes be of importance from a medico-legal standpoint, from a psychological point of view it is of minor significance, being chiefly of interest as showing the degree to which the individual has departed from the instinctive feelings of his normal fellow-creatures.

Taking the twenty-three inverted men of whom I have definite knowledge on this point, I find that three, restrained by moral and other considerations, have never had any physical relationship. In seven or eight cases the relationship rarely goes beyond close physical contact, or at most mutual masturbation. In two or three cases *fellatio* is the form preferred. In thirteen cases, i. e. more than half, actual *paedication*—usually active, not passive—has been exercised, though it seems to be the preferred method in only about six cases. Still the proportion is larger than I expected; whether a wider induction of cases would modify the result I cannot say. I may here add that six of my cases are psychosexual hermaphrodites; that is to say that they find sexual satisfaction both with their own and the opposite sex.

The circumstances under which I investigated my cases usually rendered it difficult to detect the presence of physical sexual abnormalities. In at least two cases, however, the genital organs were distinctly small and undeveloped. I have reason to believe that a similar condition of things is not uncommon among inverted women. We may connect this fact with the marked sexual precocity of inverts, precocity being usually accompanied by rapid arrest of development.

Artistic and Other Aptitudes.—An examination of my cases reveals the interesting fact that twenty-two—or 66 per cent.—possess artistic aptitudes. Galton found among 1,000 persons in Great Britain that the average showing artistic tastes is only about 33 per cent. It must also be said that my figures are probably below the truth as no special point was made of investigating this matter; and also that in many of my cases the artistic aptitudes are of a very high order. A taste for music is wide-spread among them. Three belong to the dramatic profession and at least two others have had marked dramatic ability from childhood. On the other hand, a decided taste for science is not once to be found amongst them, though two happen to be physicians.

[*The Invert's Moral Attitude.*—There is some interest in tracing the invert's own attitude towards his anomaly. I have noted the moral attitude in twenty-six cases. In three the subjects loathe themselves and have fought in vain against their perversion. Six are doubtful and have little to say in justification of their condition which they regard as perhaps morbid. The majority, seventeen in number, are emphatic in their assertions that their moral position is precisely the same as that of the normally constituted individual; one or two even regard inverted love as nobler than ordinary sexual love; a few add the proviso that there should be consent and understanding on both sides and no attempt at seduction. The chief regret of one or two is the double life they are obliged to lead.]

The analysis of these cases leads directly up to the question: What is sexual inversion? Is it, as many would have us believe, an acquired vice, to be stamped out by the prison? Or is it, as a few assert, a beneficial variety of human emotion, to be tolerated, even fostered? Is it a pathological state qualifying its victims for the lunatic

asylum? Or should we look upon it as a natural monstrosity, a human "sport," the manifestations of which must be regulated when they become anti-social? I think there is an element of truth in more than one of these views. And I am prepared to admit that very divergent views of sexual inversion are largely justified. It is natural that police officials, physicians, and inverts themselves should come in contact with widely different groups. Naturally I have largely founded my own conclusions on my own cases. I believe, however, that I may do this with some confidence. I am not in the position of one who is pleading *pro domo*, nor of the police official, nor even, I may say, of the physician. I approach the matter as a psychologist who has obtained certain definite facts and who is founding his conclusions on those facts.

The first point which impresses me is that we must regard sexual inversion as largely rooted in congenital conditions. There are at the present day two views regarding sexual inversion; one (represented by Binet, Schrenck-Notzing and others) which insists on the acquired element in inversion; the other (represented by Krafft-Ebing, Moll and others) which insists on the congenital element. There is, as usually happens, truth in both views. But inasmuch as those who advocate the acquired view often emphatically deny any congenital element, I think we are called upon to emphasize this congenital element. The view that inversion is entirely explained by early association or by "suggestion" is an attractive one, but if we look at it broadly it will not work out well. Thus, it logically involves the assertion that the normal instinct is also acquired or suggested as the result of association. But in nearly every country in the world men associate chiefly with men, women with women. If this influence is the determining one, then inversion ought to be the rule

throughout the human species, if not indeed in the whole animal world. We should also have to admit that the most fundamental human instinct had remained aimless, only by chance united to the propagation of the race, which, as a matter of fact, we find so dominant throughout the whole of life. We must put aside the notion that the sexual instinct is purely acquired, as both unscientific and opposed to experience.

The rational way, then, of regarding the sexual impulse is as an organic instinct developing about puberty. At this period, indeed, suggestion and association play a certain part in defining the object of the emotion; the soil is now ready but the kinds of seeds likely to thrive in it are limited. That the sexual impulse at this early period is normally more indefinite than it subsequently becomes, we have good reason to believe. But the range of its indefiniteness is limited. The same seed of "suggestion" is sown in various soils; in the many it dies out, in the few it flourishes: the cause can only lie in a difference in the soil.

If, then, we must assume a congenital abnormality, wherein does that abnormality consist? The matter was long ago explained by saying that in inversion a female soul co-exists with a male body. But that is not an explanation. It merely crystallizes the superficial impression of the matter. As an explanation it is to a scientific psychologist unthinkable. We only know soul as manifested through body; to speak of a female soul manifesting itself in a male body is as unintelligible as to speak of a green light shining through red glass. I say nothing of the fact that in sexual inverts the feminine psychic tendency may not exist, so that there is no "female soul" in the question; nor of the further fact that in a large proportion of cases the body, as well as the instinct, is modified.

We can probably best grasp the nature of this abnormality if we reflect on the development of the sexes and on the latest organic bisexuality in each sex. At an early stage of development the sexes are indistinguishable, and throughout life the traces of this early community of sex remain. Men possess a rudiment of the woman's breasts, and women a rudiment of man's penis, and both these rudiments may develop. The sexually inverted person does not usually exhibit any gross exaggeration of these signs of community with the opposite sex. But there are a considerable number of more subtle approximations to the opposite sex in inverted persons, both on the physical and psychic sides. Putting the matter in a purely speculative shape, we might say that at conception the organism is provided with fifty per cent. of male germs, fifty per cent. of female germs, and that as development proceeds, either the male or female germs get the upper hand killing out those of the other sex until only a few abortive germs of the opposite sex are left. In some persons, however, we may imagine that the process has not proceeded normally on account of some peculiarity in the number or character of either the original male germs or female germs or both, the result being that the individual becomes organically twisted into a shape that is fitted for the exercise of the inverted sexual impulse.

I do not present this as a serious theory of inversion but as a picture which helps us to realize the phenomena which we actually witness. Somewhat similar views of the matter have been brought forward by Kiernan, Lydston, Letamendi and a patient of Krafft-Ebing's.

Thus in congenital sexual inversion we have something which may be roughly called a "sport" and be compared to those organic variations which we see throughout living nature, in plants and in animals. The invert may be com-

pared to such unfavorable variations as the idiot or the instinctive criminal or to more favorable variations such as the man of genius—none of them strictly concordant with the biological conception of a variation, but which become somewhat more intelligible to us if we bear in mind their affinity to variations. Symonds compared inversion to color-blindness. Just as the ordinary color-blind person is insensitive to those red-green rays which to the normal eye are the most impressive, and consequently attaches a different value to other colors, so the congenital invert is insensitive to certain sensations and emotions felt by his fellows, and others have become raised in value. Or we might compare inversion to colored hearing in which there is not so much defect as a new combination of sensations.

All these various conditions which I have brought forward to illustrate sexual inversion are abnormalities. It is important that we should have a clear idea as to what an abnormality is. Many people imagine that what is abnormal is necessarily diseased. That is not the case unless we choose to give the word "disease" an inconveniently wide extension. Every congenital abnormality is doubtless due either to a peculiarity in the sexual elements or their mingling or to some disturbance in their early development. But the same may doubtless be said of the dissimilarities between brothers or sisters. It is quite true that any abnormality may be due to ante-natal disease but as long as we call it an abnormality that question is not begged. If any authority is needed to support this view, no weightier can be found than that of Virchow, the father of modern pathology, who has repeatedly insisted, that though an anomaly may constitute a pre-disposition to disease, the study of anomalies is not the study of disease.

A word may be said as to the connection between sexual inversion and degeneration. Following a fashion that be-

gan in France, we often find inversion vaguely spoken of as a condition or stage of degeneration, an episodic *syndrome*, as Magnan would say. It is doubtful whether we are entitled to speak of inversion, when it exists with few other marked anomalies, as a sign of degeneration, any more than we should of color-blindness. It is undoubtedly true that inversion is often found allied with other abnormal conditions in a combination that may fairly be called degenerate; but I agree with Moll that we must recognize that inversion may occur in apparently healthy and otherwise normal individuals. We must hold fast to the safe maxim that a single abnormality furnishes no argument for degeneration; the signs of degeneration must be fairly numerous and well marked to possess any significance as an index to degeneration. When we find a complexus of well marked abnormal characters we are probably justified in saying that we have to deal with a condition of degeneration. Inversion is frequently found in such a condition. I have, indeed, tried to show that a condition of diffused minor abnormality may be regarded as the basis of congenital inversion. But it requires something more than a few merely atypical abnormalities to constitute degeneration, unless we are to consent to that word's disappearance from scientific terminology to become a mere term of literary and journalistic abuse.

Sexual inversion, therefore, remains a congenital abnormality, frequently but not necessarily related to states that may fairly be called degenerative. At the very least, such congenital abnormality constitutes a predisposition. We still have to recognize that exciting causes may exercise a large part in the development of a latent predisposition. It is probable that many persons go through the world with a predisposition to inversion which always remains latent; in others the instinct forces its way through all

obstacles; in others again some exciting cause plays a predominant part in arousing the latent instinct.

A great variety of exciting causes have been brought forward in connection with inversion. As I have already pointed out, I have only found them operative—disappointment in normal love, example, (usually at school), and seduction by an older person. Whether any of these causes can be effectual without a predisposition is a difficult question, too complicated for discussion now. In most cases I have reason to believe that there is some predisposition present. This is, indeed, what we should expect on a broad view of the matter. “He only can be seduced,” as Moll puts it, “who is capable of being seduced.” A large number of individuals are exposed to these influences; but only a few succumb, even temporarily; the majority merely experience disgust.

At this point I conclude the analysis of the psychology of sexual inversion, as it presents itself to me. The average invert, moving in ordinary society, is usually the subject of a congenital predisposing abnormality, or complexus of minor abnormalities which make it difficult or impossible for him to feel sexual attraction to the opposite sex, and easy to feel sexual attraction to his own sex. This abnormality either develops spontaneously from the first, or it is called into activity by some accidental circumstance.

I do not now propose to consider what the attitude of society and the law should be towards the person I have here described. How far should we regard him as a deformed person to be medically treated? How far as an anti-social person to be punished or restrained? These are important questions, so important that many of us are inclined to rush to a conclusion concerning them without any clear idea as to what sexual inversion is. Before we

decide what to do with the sexual invert we must know something about him and we must attain to some general agreement. I have brought forward my contribution towards this end.

CRIMINAL RESPONSIBILITY IN IDIOTIC AND FEEBLE-MINDED PERSONS.

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The question of the criminal responsibility of persons suffering from congenital mental weakness having recently come to the front in Great Britain, in consequence of the commission of crimes, such as murder, arson and other grave offences by youths socially well connected, it may be opportune to review both the medical and forensic aspects of these cases.

It may be remarked that the older writers on law trouble themselves very little about the *fin desiecle* refinements as to differing degrees of mental intelligence with which we are familiar. "An idiot," says Blackstone (Commentaries, Book I. p. 302,) "or natural fool is one that hath no understanding from his nativity, and therefore is by law presumed never likely to attain any." Littleton "explaineth a man of *no sound memorie* to be *non compos mentis*." Sir Edward Coke, commenting on the above, alludes to the "Ideota, which from his nativitie by a perpetual infirmicie is *non compos mentis*." We may take it, therefore, that such persons, being legally considered devoid of understanding were consequently incapable of criminal responsibility. The difficulty comes in with the higher grades of mental deficiency, those whom we now call simply *feeble-*

minded (or *mentally feeble*)—not idiots,—and that product of the nineteenth century, the educated imbecile. The older writers would probably say that they drew the line of total incompetency at *idiots*; indeed Blackstone avers (Comm. B. I. p. 304) that a man is not an idiot if he hath any glimmering of reason, so that he can tell his parents, his age, or the like common matters. But a man who is born deaf, dumb and blind is looked upon by law in the same state with an idiot; he being supposed incapable of any understanding, as wanting all those senses which furnish the human mind with ideas." There is little doubt that, at the present day, the majority of the pupils of our schools for "feeble-minded" do not fall—at any rate when improved by training—under Blackstone's category of *Idiots*.

Passing now to more modern legal views, we read in Sir J. F. Stephens' admirable "History of the Criminal Law of England" (Vol. II. p. 166). A recognition not only of the incompetencies of "idiots" but of "persons tainted with idiocy." "Knowledge," says the learned Judge, "has its degrees like every thing else, and implies something more real and more closely connected with conduct than the half-knowledge retained in dreams (to which reference had previously been made). This last observation is especially important in connection with the behavior of idiots and of persons more or less tainted with idiocy. Such persons will often know right from wrong in a certain sense, that is to say they will know that particular kinds of conduct are usually blamed, but at the same time they may be quite unable to appreciate their importance, their consequences and the reasons why they are condemned, viz: the suffering which they inflict and the alarm which they cause. An idiot once cut off the head of a man whom he found asleep, remarking that it would be

great fun to see him look for it when he awoke. Nothing is more probable than that the idiot would know that the people in authority would not approve of this, that it was wrong in the sense in which it was wrong for a child not to learn its lesson, and he obviously knew that it was a mischievous trick, for he had no business to give the man the trouble of looking for his head; but I do not think he could know it was wrong in the sense in which those words are used in the answer of the judges to the House of Lords." (i. e. in McNaghten's case).

In a case in which the author of this paper was engaged (Lancaster Summer assizes 1883) a youthful inmate of a Training School for Imbecile children (the Royal Albert Assylum) was placed upon his trial, on the Coroner's warrants, for the manslaughter of another inmate, whose skull he had fractured by knocking it against the floor, (the skull proved to be abnormally thin). Sir James Stephen was the presiding judge, and he directed that the jury should be sworn to decide "whether the poor boy was in a condition to plead in answer to the charge against him—not whether he was guilty of manslaughter." I was thereupon called to depose to his state of mind, and deposed that, in my opinion, he was not able "thoroughly" to understand the nature of a criminal trial; that his mental condition was that of imbecility; and that he had not sufficient understanding to enable him to plead with due appreciation of what it involved. On his Lordship's direction the jury found that "the prisoner was not able to plead," adding also that "he was not answerable for his acts." The accused was consequently discharged to the care of his father who was bound over to produce the lad for trial when called on—ultimately the youth found his way into one of the County Lunnatic Asylums.

Last winter London was shocked by the discovery of a murdered "unfortunate" in an unfrequented thoroughfare of Kensington. In a few days it transpired that she had been the victim of a young gentleman of feeble-mind who had cut her throat with a sloga-knife, with what motive did not appear. His proceedings subsequent to the committal of the crime themselves argued imbecility, and it was ascertained that he had for some years been a pupil in a private educational establishment for youths abnormal in intellectual development, though not recognized as imbecile. Being committed for trial on the capital charge, because, in the interval between the magisterial investigations and the sessions of the Central Criminal Court, absolutely broken down in mind; and the jury having decided he was unable to plead on account of insanity, he was sent to the Criminal Lunatic Asylum at Broadmoor, where he still remains. In this case, as in the previous one, the question of criminal responsibility was not entered upon, proceedings being stayed by the finding of incompetence to plead.

In a third case, however, that of Alan Ferguson, (son of the Postmaster General in a former administration,) another course was adopted. Here was a case of a lad of sixteen, with some neurotic heredity, and undoubted history of severe meningitis in infancy with consequent brain damage and arrest of mental development. He had a deformed head and deformed palate and other signs of physical imperfection. After a severe fall with injury to head at foot ball, he seems to have formed a plan of burning down his school (Glenalmond,) and it was ascertained that he walked several miles to obtain matches for the purpose. That night he set fire to a room under his own dormitory and went calmly to bed. The fire spread till a wing of the college was consumed, but fortunately no lives were lost.

A few days later he was detected in another attempt at arson. He displayed no shame, though he confessed he was the author of the previous attempts. Evidently he had no adequate nature of the possible consequences of his evil deeds: in fact he seemed hardly to understand that incendiarism was a crime. Dr. Clouston and Dr. Littlejohn were both convinced that **“his was a case of arrested or unequal brain development, his intellectual power being in certain respects equal to the average; but his moral faculties, his common sense, his general character and his power of control, being in the condition of a child.”* In spite of these opinions, however, it was thought expedient to plead “guilty,” to avoid the risk of the youth being sent indefinitely (*“during her Majesty’s pleasure”*) to the criminal ex-lunatic department of Perth Prison; but by leave of the judge, the medical evidence was heard in mitigation of sentence, and a precedent having been discovered, Fergusson was let off with one year’s imprisonment only.

From the medical point of view alone it may be said that to punish at all a youth whose mental condition was as imperfect as that of young Fergusson’s was unjustifiable. I must confess I do not share this opinion. No one can have had extensive and intimate experience of imbecile youths without finding out that discipline—modified indeed to meet the peculiarities of each case—is beneficial; and that the doctrine of absolute irresponsibility is a dangerous one. The dictum of Judge Stephen that *“Knowledge has its degrees like everything else,”* seems, indeed, to me the principle upon which punishment should be meted out. How to *“make the punishment fit the crime”* is, in such cases of mental defect apart from delusion or impulsive insanity, a problem in which the special knowledge both of doctors and of lawyers may usefully co-operate.

(* The Juridical Review, Edinburg, Jan., 1895, p. 49.)

In many respects idiotic and feeble-minded persons are, so far as mental endowments are concerned, much in the condition of children; but children must be corrected for anti-social acts, though in a different way to adults. It is surely not beyond the resources of jurisprudence to devise means that are sufficiently deterrent to protect society from injury, and at the same time not push punitive measures beyond the point at which they will make the desired impression on the delinquent deficient in intelligence or moral sense. Prison discipline may indeed not be suitable for such cases; and Dr. Jules Morel (of Ghent) has advocated the establishment of special institutions for the correction and amelioration of the "mentally-depreciated and degenerate." To the present writer it seems that there is a growing tendency to apply too widely the term "degenerate" in extenuation of excesses which a proper cultivation of the inhibitory powers would keep in check; and that while a vicious heredity is a factor to be reckoned with, the influence of surroundings and of training ought not to be lost sight of. Séguin long ago showed how imperfectly developed frontal lobes might be actually increased in size by process of psycho-physiological training: May not other "partial arrestments of brain development" affecting the moral powers be also favorably affected by special education? Good discipline is an essential element in any method employed, and the knowledge that harm, followed by punishment, inevitably results from evil-doing should be constantly impressed upon the youth morally deficient. No countenance should be given to the notion, by which he would be ready to excuse himself, that because he is not quite like other men he is less responsible for his actions. Rather should it be urged upon him that

"Though the mills of God grind slowly, they grind exceeding small;

Though with patience He stands waiting with exactness grinds He all.

THE HYPNOTIC POWER.—WHAT IS IT?

BY ABRAM H. DAILEY, OF BROOKLYN, NEW YORK, VICE-
PRESIDENT MEDICO-LEGAL CONGRESS, EX-PRESIDENT
MEDICO-LEGAL SOCIETY.

It seems absolutely essential that publicity should be given to everything and anything which will throw light upon the mysterious hypnotic power, which undisputably is possessed, to a greater or less degree by every human being. I might even go further and say, that there is much to indicate that this power does not begin or end with man. What it is, and how it operates, are matters which have never been definitely solved, and hence are open to consideration and investigation. Inasmuch as it has been reasonably demonstrated, that it is a power exercised by force of will on the part of the hypnotist directly upon the hypnotic subject, it is certain that the operator sends a potential force to and upon the subject, which, for the time being, overcomes and subverts his will, and in some instances puts his mental faculties in operation upon a false conception of facts, conditions and surroundings. All this has been reasonably demonstrated. Of late much has been said of the exercise of the auto-hypnotic power, which simply means, the ability of the hypnotist to subject himself, or at least some parts of himself, to this mysterious force. It has been claimed by some, that certain people by the exercise of this power, delude themselves into the belief of conditions which have no existence in fact. I am inclined to believe that there is considerable foundation for this claim. I have been spending a portion of the

summer in company with a gentleman, who, for many years, has been something of a student and experimenter. He has been able to render very material assistance to people suffering from nervous diseases and neuralgic pains, and has demonstrated to my satisfaction, that by the force of his own will, and a motion of his arm, or by a pass over the side of his face with his hand that either his eye or arm, according to his will, could be thrown into a complete cataleptic state. To illustrate: I have seen him throw his right arm out in a horizontal position, pass his left hand over it, when it immediately became rigid, unbending, and presented a cold and clammy appearance and condition. In this condition it would remain for hours, unless he, by the exercise of his will-power, and the backward passes of his left hand over the right arm, restored it to its normal condition, and the same was true with reference to his eye and the side of his face. He claimed that the arm and side of his face was devoid of the sensation of pain, and I have no reason to question his statement.

Dr. C. W. Hidden of Newburyport, Massachusetts, possesses the hypnotic power to a marked degree, and during August last I was present when he gave some exhibitions of it, and I listened to his lectures with great interest. He put forth one remarkable claim, to which I especially desire to call the attention of this Congress. It is a very important matter, because it bears upon the question of the responsibility of both hypnotist and subject in a certain class of cases. Dr. Hidden claimed that as the result of repeated experiments, he had found that he possessed no power to induce his subjects to commit an act of immorality, a dishonest act, or a crime. He claimed that a virtuous woman could by no power of the hypnotist be induced to commit an immoral act, and he also claimed that an honest person could not be induced to commit a crime.

He mentioned several instances where in the presence of others, he had made rigid tests, and in the instances of the ladies, the very first suggestion of immorality resulted in their recovering complete consciousness. He had succeeded in getting a subject to consent to break open a house and steal money, and had gone with the subject to the house designated, and when urged to pry open the window, the subject began making excuses, but finally consented to remain outside while the doctor should go in and hand out the plunder. The doctor commenced to pry open the window to force an entrance, when he saw his companion fleeing so rapidly across the field that he had great difficulty in overtaking him, and when overtaken was found to be in a state of great fright, though evidently still continuing in the hypnotic condition. I did not understand him to claim that a person predisposed to immorality or to crime would be thus affected. The doctor certainly is a very intelligent gentleman, and if what he claims in these respects shall be confirmed by the observation and experience of others, it will be a very important matter in overcoming the objections of many persons to the exercise of the hypnotic power. It may be suggested that the subject was to some degree, influenced by what evidently was the condition of the doctor's mind, to wit: that no act of immorality nor criminal deed was really to be committed. But this can have no more force than any other mental state on the part of the hypnotist when inducing his subjects to believe all sorts of absurd things to exist around him. For instance, when the operator places a cane in the arms of his subject, and tells her it is a baby, he knows that it is not, but the subject fully believes the cane to be a baby. If he turns to her suddenly and tells her it is a serpent, she will become frightened and throw it down in the greatest terror. Most persons consider ani-

mal magnetism and the hypnotic substance—for substance it must be—to be identical. I believe this to be an error. It is very hard for many persons who are pretty well informed upon matters of every day occurrence, to realize that force is absolutely invisible, and that it may and does operate upon substances which are invisible also. Magnetism is an invisible substance, and I think that is properly denominated animal magnetism, which, without the exercise of the will, is transmitted from one person to another, usually from the strong to the weak. Some persons naturally possess this substance in large quantities, and transmit it with most beneficial results to the weak and ailing. It is something which may be transmitted from one to another, and oft-times with beneficial results to both. Magnetic healers claim to replenish all waste from the atmosphere, and their immediate surroundings. Call it magnetism or what you will, it is a species of nourishment which nature has provided for all and supplies to all, and as it can be transmitted with good results, the methods of transmission should be made a subject of careful study, and the adaptability of healers to treat persons of varying temperament should be understood.

Is this magnetic current identical with the hypnotic current which the operator throws upon his subject? You may say I am assuming too much; that in fact, there is no evidence that the hypnotist transmits anything; that he merely exercised his will-power. Let me ask, what we do know about the will-power of man? How can it operate upon the faculties of another man unless by contact? Every movement of your arm in reaching for an object, is directed by the will. By exercise of the will, substances are set in motion and produce anticipated results. Why then may we not with great certainty claim, that thoughts are actual things, that the ego in man is the essential and

and eternal principle in life, setting in motion all the machinery of his physical and spiritual nature? That every man possesses will-power, cannot be questioned; and that he cannot in the nature of things, exercise that power upon another man without a medium of communication, any more than he can move an inanimate object without contact with it, by something of a substantial character, is in the nature of things most certain. What is that medium of communication which the hypnotist uses? Is it animal magnetism, or is it a peculiar substance produced by the operation of the mental faculties and sent wherever the will directs? It is conceded by the ablest hypnotists that no one can be hypnotised against his will; that the subject must hold his will-power in abeyance, thus permitting his mental faculties to become permeated with emanations from the mental forces of the operator, until a medium of communication is not only in fact established, but the mental faculties of the subject are largely under the control of the operator, who has them within his grasp. I do not believe that animal magnetism and thoughts are identical in substance. They probably bear some relation to each other of an important character, and this relation could appropriately be discussed in connection with what is known as Christian Science.

I have but imperfectly stated my views upon these interesting matters; and in closing permit me to urge the importance of discountenancing any and all legislation upon a subject so important, and of which so little is known. Let all freely strive to fathom and solve the mysteries of the nature of man, and let no class of men assume that they can be more safely trusted with these investigations than any other, for class legislation is an abomination to a liberty loving people.

MEDICO-LEGAL ASPECTS OF CHILD LIFE INSURANCE.

BY FREDERICK L. HOFFMAN, F. S. S.

Child insurance is opposed on the ground that it leads to child neglect and child murder. The attention of the public and the legislatures of various States has time and again been called to so-called abuses of the system of Industrial Insurance. Isolated cases of child cruelty connected with child insurance have been brought forward to support the position of the opponents of the insurance of children under ten years of age.

In England, during 40 years of agitation, Parliament, after the most searching inquiry, has refused time and again (as late as 1891) to interfere with the business, and in this country the Massachusetts Legislature at its last session refused by an overwhelming majority to consider favorably a bill reported by the committee on insurance, prohibiting the insurance of children under ten years of age.

The charge is made that child insurance leads to neglect and subsequent premature death of children. The charge is that annually hundreds and thousands of children are murdered for the sake of their insurance money, and the aim of this paper is to present a few facts and statistics to make plain the position of those who maintain that child insurance does not lead to child neglect or child murder.

In the first place I shall deal with the general child mortality and ask the question, which I believe to be reasonable, whether it is not self-evident that if there were grave abuses connected with child insurance these would

find expression in the mortality tables of the companies and the localities at large in which Industrial insurance companies operate. If murder was the end of a large number of insurances, is it not reasonable to expect that this would be shown in a higher rate of child mortality among insured than among uninsured children? On this presumption I offer the following table which shows for two large companies, one in England and one in this country, the mortality of insured children compared with the mortality of the population at large :

COMPARATIVE MORTALITY OF INSURED CHILDREN AND
CHILDREN OF ALL CLASSES.

(Per 1,000 living at same age.)

UNITED STATES.		ENGLAND AND WALES.	
Prudential Insurance Co., of America.	American Life Table.	Prudential Insurance Co., of England.	English Life Table.
1— 2	61.55	62.78	63.24
2— 3	30.35	35.38	32.39
3— 4	20.35	23.62	18.62
4— 5	15.23	17.47	13.48
5— 6	11.85	11.20	10.03
6— 7	9.04	9.78	7.61
7— 8	6.92	8.99	5.72
8— 9	6.10	8.16	4.89
9—10	5.40	7.39	4.28
			6.57

It will be observed here that without exception the mortality of insured children at the earlier ages is below the mortality in the population at large. The fact has been demonstrated by other methods, which, however, it would require too much time to explain here. It is shown here that there is no observed tendency on the part of insured children to die in larger numbers than those which are not insured. There being no proof in the general mortality in support of the charges that insurance leads to child murder, we may now examine certain related phases of this part of the inquiry which may afford a different view of the subject.

If child insurance leads to child murder, we may reasonably expect two conditions to be met with, first, that the mortality of children be greater in places where insurance is carried on than in those places where it is not; and second, that the death rate of children be greater at the present time, if not constantly on the increase, than at a time when Industrial insurance was not in operation. The first point it is somewhat difficult to demonstrate since there are practically no cities in which Industrial insurance is not carried on at the present time, but we may compare the death rate of countries like England and Wales, where Industrial insurance has been carried on 40 years and more, with a country like Italy, where it is unknown. The death rate of children under one year in England and Wales was 149 per thousand births in 1891. In Italy the mortality in the same year was 188 per thousand, showing a large excess of mortality in a country where infant insurance does not exist. The statistics of Italy are supported by the mortality statistics of other European countries, and the table which follows will illustrate this point with more emphasis than the single fact in reference to Italy.

INFANT MORTALITY IN VARIOUS EUROPEAN STATES.

(Rates per Thousand Births 1863-1883.)

Wuerttemberg -----	312.5
Bavaria -----	308.4
Saxony -----	282.4
Austria -----	256.3
Italy.....	209.7
Prussia.....	207.8
Holland -----	193.2
Switzerland -----	187.9
France -----	166.0
England -----	149.2

Now of all the countries enumerated here England is the only one in which infant insurance is extensively car-

ried on, and yet of all countries enumerated in this table England is lowest in regard to its infant mortality. This is exactly the reverse of what should be expected if child insurance were a factor detrimental to child life.

We may now compare the mortality of children under one year of age, at which there is no insurance in this country, with the mortality of one to five years, at which large numbers are insured. This has been done in the following table for the four eastern counties of Massachusetts, in which the bulk of Industrial insurance in that State is transacted :

INFANT AND CHILD MORTALITY IN EASTERN MASSACHUSETTS.

(Suffolk, Norfolk, Essex and Middlesex Co.)

DEATHS PER 1,000 POPULATION.

	0-1	1-5
1880-----	240.07	41.81
1881-----	242.85	38.07
1882-----	233.95	32.51
1883-----	237.25	36.18
1884-----	239.81	33.10
1885-----	230.91	33.27
1886-----	225.58	28.57
1887-----	246.85	34.23
1888-----	238.76	32.01
1889-----	243.33	31.54
1890-----	245.92	26.83
1891-----	251.88	25.41
1892-----	248.96	27.32
1893-----	245.63	30.41

This table shows that child mortality under one year (at which there is no insurance) is excessively high as well as on the increase, against a decrease in the mortality at the age period one to five, at which age large numbers are insured. In this country about 1,500,000 of children under ten years of age, and in England about 4,000,000 of children under ten are insured, and if there were any murder, any cruelty or starvation connected with child insur-

ance, the mortality figures of large cities would certainly show it, yet I have failed to find, after a diligent study of the Registration Reports of American and English cities, any evidence showing that there has been an increase in child mortality at those ages at which child insurance is carried on; but on the contrary I have found, and the facts are accessible to any student of the subject, that there has been a considerable decrease in the mortality of children, ages one to five, in this country, and ages under one in English cities.

In the table which follows I give for twenty-eight cities the death rates of children under age one for the period 1885-1894, compared with the year 1894:

MORTALITY OF CHILDREN UNDER 1 YEAR TO 1,000

BIRTHS.

(28 Large Cities in England and Wales.)

	Average rate				
	1885-94	1894			
London	153	143	Decrease	10	per 1000
Brighton	147	138	"	9	" "
Portsmouth	144	131	"	13	" "
Norwich	170	164	"	6	" "
Plymouth	165	168	Increase	3	" "
Bristol	144	149	"	5	" "
Wolverhampton	174	165	Decrease	9	" "
Birmingham	170	163	"	7	" "
Leicester	232	162	"	70	" "
Nottingham	168	173	Increase	5	" "
Derby	147	123	Decrease	24	" "
Birkerhead	159	142	"	17	" "
Liverpool	185	179	"	6	" "
Bolton	174	161	"	13	" "
Manchester	182	159	"	23	" "
Salford	189	173	"	16	" "
Oldham	175	160	"	15	" "
Blackburn	192	168	"	24	" "
Preston	228	203	"	25	" "
Huddersfield	163	169	Increase	6	" "
Halifax	159	134	Decrease	25	" "
Bradford	167	144	"	23	" "

	Average rate				
	1885-94	1894			
Leeds	173	155	Decrease	18	per 1000
Sheffield	174	156	"	18	" "
Hull	162	141	"	21	" "
Sunderland	163	166	Increase	3	" "
Norcastle	163	156	Decrease	7	" "
Cardiff	162	141	"	21	" "

NOTE.—In England children are insured from two weeks after birth ; in this country no children are insured until one year of age.

It will be observed that in only five out of the twenty-eight cities has there been an increase in child mortality, against a decrease in twenty-three of the large cities of Great Britain. Such a favorable showing could not be possible if grave abuses were connected with infantile insurance, which is nowhere as extensive as in England.

It is estimated on the basis of careful calculation that at least 80 per cent. of the working classes of England and Wales are insured on the Industrial plan, and any abuses, cruelty, starvation or murder would necessarily find expression in the higher death rate of those cities, 80 per cent. of the working population of which is insured with Industrial companies.

We have here, then, in these various tables convincing proof that child mortality is, first, no more excessive among insured than among uninsured children ; second, that it is not more prevalent in sections where children are insured than in those where they are not insured ; third, that child mortality is on the decrease in nearly all of the large cities of this country and in England, in spite of the fact that infantile insurance was never as common as at the present time—in spite of the fact that over 5,500,000 of children are insured in England and Wales and the large cities of the United States.

The charges which are here proven to be unfounded have been made and are being made with a persistency worthy of a better cause by the Societies for the Preven-

tion of Cruelty to Children. In England the National Society, and in this country the Massachusetts Society for the Prevention of Cruelty to Children have made most bitter attacks and have been the cause of legislative hearings and investigations on the subject of child insurance. If opportunity for observation is an excuse for their activity they have certainly a right to be heard. During the ten years of operations of the National Society in England 156,000 children have come under their observation. The Massachusetts Society during eleven years has dealt with over 50,000 cases. The New York Society in twenty years has dealt with 260,000 cases, whereas the Pennsylvania Society during eighteen years has had under its observation 33,546 children. There has therefore been opportunity for a careful and comprehensive study of the vital effects of child insurance, and yet it remains for the opponents of the system to prove that such abuses exist.

In all the specimen cases cited by these societies in the other cities of this country and England I have failed to find one single case which would clearly support their allegations. Before the Parliamentary Commissions charges were made "on allegations," "on hearsay," "on belief," "on what the neighbors say," but in not a single instance on fact. The National Society during five years dealt with 146,248 children, of which 30,536 were insured. This is equal to about 20 per cent.; whereas, as has been shown by Mr. Moon and others, the percentage of insured children among working classes is over 80 per cent.—largely in excess of that shown by the Society.

Societies for the Prevention of Cruelty to Children are not confined to this country and England alone. They are to be found in all quarters of the globe—in France and Germany, in Italy and Portugal, in Cuba and Peru, as well as in the Danish West Indies—in countries in which the

very term Industrial Insurance is unknown; therefore child cruelty and child murder is not confined to those countries which make the claim to be the most civilized, and in which as a product of civilization, Industrial Insurance has made the most enormous strides in recent years.

I called attention to the fact in the beginning that child mortality in Italy and the European States is greater than in England, regardless of the fact that there is no Industrial Insurance in these countries. I now call attention to the following fact which will prove of interest in this connection: In Philadelphia in 1893 it was claimed that the excessive mortality among colored children was due to child insurance. It was claimed that the children had been imperfectly nourished and that in consequence they had been allowed to starve to death. Now this statement taken by itself of course would lead many to suppose that there existed a connection between child abuse and child insurance, but I would read to you from the report of the Board of Health of Savannah, Ga., for 1891 a paragraph which will explain the true meaning of this condition: "Fifty per cent. of the children who die," writes the Health Officer, "never obtained medical attention. In many instances the parents will not call in a physician, claiming that the children died before they could go for a physician, although a cross-examination will show that the children had been sick from two to ten days before they died. Second, in many instances they will not call in physicians when the city provides them free attendance. Again, a physician is often called to see a moribund case, too late to even furnish a certificate as to cause of death. The evil is a growing one, but the remedy for it has not yet been discovered." This is from a city in which, at that time, no Industrial Insurance was carried on.

The Registrar-General of Trinidad, West Indias, attri-

butes the high infantile mortality of that island to "neglect and inattention on the part of Creole parents, either willfully or thoughtlessly, or frequently unavoidable owing to the absence of many of the parents in the pursuit of their daily occupations."

We have here a statement of child cruelty and neglect from two sections in which Industrial insurance is unknown, and we may well ask the question to what we must attribute the existence of an evil which in one city alone should have brought over a quarter of a million of children before the Society for the Prevention of Cruelty to Children. Information and proof are not wanting, and official statements can be quoted which emphatically place the responsibility for child abuse where it belongs.

Captain George W. Parkes, Agent of the Baltimore Society for the Prevention of Cruelty to Children, places the blame where it belongs when he cites that after a careful examination of the Society's records he is convinced that intemperance has been the cause of the misery and suffering in at least nine-tenths of the cases where the children have been protected or rescued by the Society. This admission is supported directly and indirectly by official utterances and the statistics of nearly all of the societies engaged in this work.

The Liverpool Society, one of the most influential in England, has time and again placed itself on record that to drunkenness and its consequent evils must be attributed most of the abuse and cruelty to children. The Society had under its observation during the 12 years 1883-1894 nearly 19,000 children, and in 1894 out of 2614 cases 1103 were attributed to drink and its consequences. The statistics of the Scottish National Society show that for the year 1894 out of 2318 cases of child abuse 813 were due to drink and its consequences, but the statistics of these two socie-

ties show more, and I present below a table showing the various causes to which child neglect, cruelty and starvation were attributed. The table will prove interesting reading to those who do not have access to the original reports.

APPARENT CAUSE OF CRUELTY TO CHILDREN.

	Liverpool 1894	Glasgow 1894
	Cases	Cases
Father dead	193	204
Mother dead	197	277
Both parents dead	60	11
Deserted by parents	42	37
Parents in prison	12	40
Parents blind	3	—
Mother neglectful	244	20
Hasty temper	47	4
Unkind step-parents	68	3
Illegitimate	48	60
<i>Drink and its consequences</i>	1103	813
Poverty	16	29
Wilfulness of children	39	56
Parents living apart	104	325
Want of proper care	198	202
Parents grasping	163	232
Parental immorality	77	5
	<hr/>	<hr/>
	2614	2318

The first six causes in the foregoing table deal with the parents, or rather, with the want of parents of the children taken charge of by the Societies. In Liverpool 19 per cent. and in Glasgow 24 per cent. of the children had either no parents, only one parent, or criminal and infirm parents, that is, they were practically homeless waifs, no doubt taken charge of by those who had for them neither affection nor other sentiments. 42 per cent. of the children in Liverpool and 35 per cent. of the children in Glasgow attribute their condition to drink and its consequences among their parents. About 200 in each city suffer from want or proper care, and in Liverpool 104 and Glasgow 305 suffer

on account of the separation of the parents. Only 16 cases in Liverpool and only 29 cases in Glasgow were due to poverty. This makes the case very plain. It shows beyond dispute that poverty and crime do not go hand in hand in child abuse and child murder, but that drink and its consequences are the most fruitful evil to contend with. In not a single instance is child insurance attributed directly as the cause of child cruelty.

The statistics of these Societies do not give all the information that it would be valuable to possess. They do not show from what classes of the population the children were rescued and in what sections of the cities they were found. We, however, may presume, and the presumption is based upon personal knowledge of facts, that most of the cases dealt with were among those classes which Mr. Booth placed below the very poor, that is, the criminals and drunkards—from among the very lowest classes of the population among which human instinct of parental regard for offspring had almost become extinct. The pitiful condition in which many of the children were found would seem to prove this. Large numbers were in a frightful condition—actually starved to such a point that but for timely intervention death would soon have taken place; and here we meet with a point of considerable difference between conditions in England and conditions in this country. It is the custom of some of these Societies to publish illustrations of the most pitiable and criminal cases coming to their attention. In England these cases are mostly of children brought down to a point of actual starvation. In this country most of the children taken in charge of by Societies for the Prevention of Cruelty present a healthful appearance but show marks of brutality and cruelty.

This meets another point which is well known to those who have made a study of mortality statistics, that cases

of accidental suffocation—"criminal over-laying," as it is called in England, are almost entirely unknown in this country. I only call your attention to the different conditions in England to make plain that certain aspects of the agitation in England have no reference to the problem over here.

In the second part of my inquiry I believe that I have shown that while poverty is not a cause of cruelty and murder, and that while life insurance is not a cause of cruelty and murder, the want of a home, and most of all, drink and its consequences, are the causes of child neglect and cruelty, and I can state it as a fact that with foster children, illegitimate children, children on baby farms, those children not under parental care, Industrial insurance has very little if anything to do.

The basis of my argument is the law of large numbers. I have reasoned from premises sufficiently large to bring out emphatically certain aspects of the problem. Isolated cases of cruelty and murder, isolated cases of abuse of the system of Industrial insurance cannot be prevented and cannot be taken into account in legislative measures. Parliament does not legislate for the benefit of the individual, but it does legislate for the masses, and a system of insurance that is taken advantage of by over 8,000,000 people in this country—a system of insurance in which over 1,500,000 children are insured, deserves to be considered more seriously on the part of legislatures before attempts are made to interfere with its legitimate functions. If grave abuses exist—if my reasoning is wrong—if starvation and murder of children is prevalent to any appreciable extent, it remains for those who oppose the system to prove their case.

The subject appeals with singular force to the physician and the lawyer, that is, to the medico-legal profession, and

is deserving of all the time and patient investigation that qualified investigators will devote to it. In our large cities there are not many physicians who at one time or another do not come in contact with cases in which their patients are insured; and lawyers frequently will find among their clients those who hold Industrial policies on themselves or on their children. Therefore the two professions have exceptional opportunities for investigation, and it is to them that the public and Legislature should look for investigation, and not to the sentimental philanthropist.

What is needed in an investigation of this subject is men who will face the subject without prejudice and without pre-conceived ideas—who will face it as they would face a question in law or medicine—without sentiment and without favor; but to those who are so strongly prejudiced on the subject and who have so bitterly attacked the system of infantile insurance I would say that it would be well for them to remember that “the man who differs from us, not only in opinions but in principles, may be as sincere and honest as we are.”

WOMAN IN THE LEGAL PROFESSION AND IN ITS RELATION TO MEDICAL JURISPRUDENCE.

BY JENNIE V. STANTON WILLCOX, M.D., SARATOGA SPRINGS, N. Y.

That woman may study, and practice, law, as well as medicine and divinity, has been decided in her favor, in the New York State Legislature.

First: The women of the civilized world are in need of legal knowledge mainly for their own and their children's protection against ignorance and crime.

Second: As applied to the subject of heredity.

Third: Without regard to sex, its relation to the practice of medicine:

Then, *first*, it has doubtless been generally conceded that the *minds* of both men and women are inextricably dependent, pre-natally, on their mothers. Many men of superior calibre and culture unite in this opinion; and, also, that the constitutional indications are largely ascribed to the father. We may, then, take the liberty, in this brief paper, to sweep aside doubt and discussion, and presume that the higher cultivation of the minds of women, as early in youth as is discreet for health's sake, is not only desirable for the immediate happiness and profit of women, but is a prior necessity for the happiness and profit of their children, whether male or female! (We take it for granted that a female is as grateful for being "well born" as is a male; so, we permit no jealousy, or injustice, to supervene at this stage of our discourse.) That a man may become great and successful through the pre-natal influence of a superior

mother is proof, absolutely, of the same effect upon a woman. If a well educated young man is usually constitutionally and morally higher in the scale of purity and culture than is the uneducated, and is, therefore, a better father, it is proof that the same condition and the same result applies to a woman. If a man is more successful in business, or the professions, because he is liberally educated, it is proof conclusive that *all* of the womanly virtues and abilities will also increase in value and charm under the same conditions. But few men, or women, descending from minds and abodes of scientific and professional education, would degenerate, or depreciate. They would mostly,—barring accidents—hold their own. “As we think, so we are.” We more certainly meet this mournful state of affairs among the ignorant, which is prolific of vice; and it has been more or less truthfully said, “There is no sin but ignorance.”

The *hereditary* claim for superior education, *secondly*, for women, cannot exclude the study and the practice of law, and is a part of the plan for preventives to ignorance and its first cousin, *crime*. If co-education is productive of moral and mental emulation in preliminary schools and colleges, it is a proof of its value in legal knowledge. It may be considered that the practice of law scores its triumphs *because* ignorance and crime pervades civilization, but we think that more general virtue would accompany more legal co-education, which *should* be its highest award.

The *forensic* study of law, for women, includes the benefits of knowledge for the unborn, while the immediate application of the study, and practice, (or without practice) of law makes it possible for these female students and practitioners to infuse a new, and perhaps a more delicate and *just* discrimination in the adjustment of difficulties in courts and homes and prisons and in hospitals.

Thirdly, the "Rights" of women seem to have arrived at the stage where it is of lesser consequence in debate than (when possible, legally,) to assert and maintain their position practically, in the face of all difficulties, fancied and real. Medical jurisprudence is defined to mean "the science which applies the principles and practice of the different branches of medicine to the elucidation of doubtful questions in a Court of Justice—Medico-Legal science." It would seem a superfluous question to the woman-physician *why* a legal education in so far as she may gather it in, would not benefit her and hers in equal measure to a man, although it be undoubtedly true that women, with their household and wifely and motherly cares, (married or single, in their family relations) can seldom become the equals of men in the same profession, for the simple and imperious reason that their time and strength is divided; but prompt beneficial effects must follow future generations through the mental improvement, and consequent *strength*, of liberally educated women, which no more excludes law than anything else of value.

The occasions for bringing patients into courts of justice are too painfully numerous not to *miss the absence*, and require *the presence* of the sympathetic women physicians for the benefit of these afflicted people, whether criminals or insane, for they are all sick—very sick—and helpless; and it would seem that the courts are the best, if not the most agreeable, places in which to study the mysteries of diagnosis and prognosis of disease. We are always, in practice, meeting with "doubtful questions" regarding the mental conditions of our patients, and we sometimes deeply regret our ignorance of law, which lack more or less cripples us in the practice of medicine.

In conclusion, as illustrative of what may enlighten the minds of the opposers of "the higher education" for

women, I quote a story from the lips of my husband Albert O. Willcox, of New York.

“Several years ago an emissary of the British government was sent to negotiate with some Asiatics with reference to pending questions. While in the capitol of Persia, at Ispahan, a court feast was given by the Syrian government to which the emissary was invited. After the main business of the feast was transacted, and hilarity prevailed, one of the Persian ministers said to the financial visitor, ‘We are in want of more guns.’ The minister replied, ‘Make out your order, which I will forward to London for execution.’ At this point another minister interrupted with the impatient query, ‘Why can we not make our own guns?’ and forcibly added, ‘we have copper, tin, &c., in abundance; we have skilled workmen; why, then, must we send two thousand miles, or more, to procure an article essential to our own defense?’ The high dignitaries present suggested various reasons. The discussion proceeded until most of the assembly became deeply interested. The emissary was an attentive, but silent, listener. After considerable time had been expended some anxiety was expressed to hear from the Englishman, who was invited to give his opinion, which he gave, under some embarrassment. He said: ‘I must request of all present a pledge that no offense will be entertained at what I am about to say. Remember, we are friends, and several proverbs teach us that one important office of friendship is to communicate the truth, whether it be complimentary or otherwise.—I understand, by silent acquiescence, that this pledge is given by all present. *The chief reason that your workmen cannot compete successfully with ours is that our men are the sons of FREE WOMEN*, and their standing, at our court, does not depend wholly on their mechanical skill; we employ the best workmen the kingdom affords. Their

mothers are, many of them, as well educated as any of you gentlemen, while the mothers of *your* workmen are merely *bond-women, who have no direct interest in the results of their labor.*'

"The question before the meeting, we are informed, was not decided, and they quietly and mournfully adjourned without any expression of opinion, but with as mortified and subdued an expression of countenance as any decision could have been."

FRAUDULENT LIFE INSURANCE AND ITS RELATION TO THE MEDICAL EXAMINER.

BY H. R. STORER, M. D., LL. B., (HARV.), NEWPORT, R. I.

Examiner for the Equitable Life Assurance Society of the United States;
formerly Prof. of Medical Jurisprudence at Berkshire Medical
College; Associate Member of New York and Rhode
Island Medico-Legal Societies.

The alleged murders, based upon fraudulent insurance, that are at this moment awaiting the courts, and the many similar cases that have preceded them, would seem to necessitate a question or two for the consideration of the Congress. My own remarks concerning them will be very brief.

Upon the Medical Examiner rests a portion, greater than at first might be supposed, of the responsibility in preventing fraudulent insurance. He is not merely to do his best towards protecting the company by which he is employed, against the acceptance of unhealthy lives. He has also constantly to be upon his guard against the possibility of crime, for though soliciting agents are in most respects to be held accountable for the character of the applicants whom they bring to the examiner, and though the company's detectives are expected, before the acceptance of a risk, to close most of the avenues to fraud that may exist, and though the medical directors sit in judgment upon the points which come within their province, the medical examiners occasionally, if not frequently, may possess additional safeguards. They may know the applicant personally, while the medical directors as a rule cannot, or be

aware of his personal repute, or have knowledge of his family and his usual associates, or his home surroundings. With the understanding of human nature that medical practice can hardly fail to give, they have an exceptional opportunity for judging whether the person or persons seeing them in relation to the application are acting in good faith. There is more than one sense in which the possible duties of the examiner do not seem fully covered by the usual inquiries upon the official blanks, or by suggestions in any insurance manual. The terms "matters of delicacy", and the like, are so general that some, doubtless, often hesitate to define them. There is, besides, not always that identity of interest between the examiner and his company, that the welfare of both would seem to indicate as of first necessity. Such being the case, it is of even more importance than would else occur, that the examiner should not only be professionally competent, which is supposed to be ensured by the precautions that the company takes when appointing him, but that his whole and undivided energies, so far as insurance is concerned, should be with the company which he represents. This would seem to go without saying.

1. Ought, then, a physician to engage himself as medical examiner to more than a single company?

It would seem not. For though the temptations may be very great to do so, he cannot effectually serve more than a single master. It will of course be urged that as the examiner is in no sense to act as an ordinary agent or solicitor, it can make no difference to his original employer if he accept service with a dozen other companies, as does indeed often occur. A moment's reflection will show the fallacy of this. It will again be said that in many small places there are not reputable physicians enough for each company to have a separate examiner. It would be no

hardship, however, in such cases, and would cause but slight delay and inconvenience, if the applicant had to go a few miles to the examiner, or the examiner to the applicant. The greater confidence in a company that would be secured if it were known that it did not confide its important trust to "any physician, no matter how many his companies", would more than compensate for the absence of the bustle of the present rivalry. It would be no disadvantage to the great and well established companies if they did indeed practically monopolize the services of those best fitted to work for them. They could not but be sure of a better result.

2. Upon the other hand, ought companies to accept reports save from their own carefully appointed medical examiners?

There are companies which refuse to do this, confident that by such conservatism they but strengthen their own reputation and lessen their chances of suffering through fraud. In many, if not most instances, medical examiners hold policies of insurance upon their own lives, sometimes wholly with the company which first appointed them, and at other times with several companies. It will be argued that physicians, like other men, have the right to thus subdivide their insurance. Granted, but when it comes to subdivide their services as examiners, to correspond, it may be inexpedient for the company that originally employed them. If an examiner at any time desires to increase his insurance, from five thousand we will say, to twenty-five thousand dollars or more, it is as easy to do so with his own as with rival companies, provided only that the risk upon his life is still good, and if it has ceased to be so, there is no company that should legitimately take it. It would seem futile further to claim that examiners, like other investors, may prefer for safety's sake to have their eggs in

several baskets, for if they have as little confidence as this in the company which first appointed them, a due regard for their professional reputation should at once sever the connection between them. Doubtless it will also be said that the examiner will instinctively guard, as an investment of his own money, the interests of every company in which he is insured. It is supposable, however, that each company would prefer to have exclusive, rather than *pro rata*, confidential service.

3. Should companies employ soliciting agents that are acting for other companies than their own?

This may seem a query outside the present discussion. It will therefore be considered only in relation to medical examiners. There may be advantages not perceptible to the disinterested observer, for with business corporations all is sometimes considered grist that comes to their mill. Soliciting agents, however, often aver that they are underpaid, and that if they can pass an applicant that one of their companies has rejected or would be quite sure to decline, into another of those with which they are connected, it is no one's affair but their own. It is also considered advisable by some of them to occasionally employ an examiner other than the accredited one of their company, as likely to obtain his influence in advocating those comparative merits, as against rival companies, which it is their interest and duty to proclaim. It is to be believed, moreover, that agents have sometimes thrown examinations into the hands of their own family physician, unconnected with the company they represented, as an offset to his professional charges, for attendance, against themselves. However certain such measures may be to react upon those who employ them, they tend to create disaffection among the persons most directly concerned, and to bring discredit upon life insurance generally. There are probably many

persons who are deterred from being insured at all, through knowledge that there are such disreputable procedures, and fear lest there may be no company that is not tainted by them.

4. Should soliciting agents, where supposed acting for a single company, be permitted to suggest to applicants that they may be examined by another than the accredited examiners of that company?

This query is partially connected with one of the preceding, but it is very important in connection with the purpose of the present Congress. The agent's business is, if possible, to capture his game. The larger his bag, the greater his reward. There is for him a double temptation. By employing as examiner a physician outside his company, he may possibly eventually persuade that person to take out a policy himself. Upon the other hand, by suggesting to the applicant that he may be examined by his family physician or some other personal friend, while he caters to the instinctive wish of the applicant that the examination may be as lenient as possible, he opens wide the gate of possible fraud, through carelessness or over-confidence, if not direct complicity. Again, in every city, for this is a matter of common knowledge, there are physicians who not only importune the soliciting agent for this kind of employment, but even besiege the headquarters of the companies with their requests for official recognition, in the hope not merely of the immediate fees, but of extending, through larger acquaintance the appointment would give, their general practice. Many of these applicants are already connected with other companies, and they aim at practically sweeping the board. When with this reputation such are employed by the soliciting agent, it tends to discourage the regularly appointed examiners, it makes discord in their profession, and companies employing these

agents cannot expect from the regular examiners as ready or perfect service.

There should be upon the part of each company a pride in its examiners and a desire to make them honor their office, and upon that of each examiner such personal solicitude for the company's success as shall render his work for it even more perfect than it could otherwise possibly be, and his alertness even more constant towards the prevention of fraudulent insurance, whether based upon substitution, or upon homicide.

There are other points of interest in this connection, such as the advisability or not of attaching photographs of the applicant's head and thumb-face to each policy; juvenile and conjugal insurance, the former of which is to be treated of by Judge Hoffman, of Newark, at the present Session; and the insurance of women, generally,—that are well worthy the attention of this Congress at future meetings. They are all of them of undoubted importance in relation to criminal jurisprudence.

COMPULSORY VACCINATION AND ITS ERRORS.

BY MATILDA MOREHOUSE, OF N. Y.

One of the most important questions of to-day is that of compulsory vaccination.

Since the days our forefathers fought for the freedom of America, people supposed they had the rights and privileges granted them, as free American citizens, and that no man or body of men have the right to place them in bondage or jeopardy without sufficient cause or breach of law.

Compulsory vaccination is taking the rights away of civil and personal liberty, and moreover vaccination is repulsive, degrading and lowering to humanity. To transmit disease, blood, pus, or virus from dumb beasts into the human body is very wrong. We all know from various reports that there are spasmodic epidemics among cattle with disastrous results, so much that the European governments have adopted stringent measures to stop the importation of cattle from the United States.

There is more disease and suffering lurking in the dumb beast than we are aware of, as they suffer in silence, as cattle are subjected to rough treatment, out-door exposure, poorly fed and sheltered in damp cold places, and very often cared for by unreliable, inhuman, brutal attendants, especially when treated by daring experimenters with knowledge purchased at the price of suffering and of precious lives, when certain theory leaders are making wonderful discoveries that threaten to revolutionize the practice of medicine and endanger the methods of life and the health of the nation.

Experience here and everywhere has shown that vaccination alone has no effect whatever in preventing the spread of small pox. Doctors' responsibility is great, when unwilling victims of enforced medical superstition must bear all risks, the pain, long suffering, expenses, some derive terrible results, deep ulcerations to fatal blood poisoning, erysipelas, skin eruptions, death and inherent evils.

Cow pox may be regarded as the same type of disease as syphilis in the human being.

Why tolerate vaccination any longer? Three-fourths of the entire population are suffering to-day more or less from diseases of the skin, during the last thirty years. Please let us take for example, a pure, healthy child of parentage free from disease and have that child vaccinated with that poisonous virus taken from such diseased cows or heifers, wouldn't that transmit disease and poison the entire system, its result disastrous, or that child may have an eruption all the days of its life, or never become strong and healthy.

Some 20 years ago, my husband Dr. Morehouse, has seen in hospitals the pus or vaccine taken from the arms of persons, undoubtedly many of them were afflicted with various ailments, erysipelas, syphilis, scrofula, or other diseases the human body is subjected to, that virus was mixed up and kept in large glass jars and utilized for vaccinating others. Are not the spasmodic epidemics of small pox and their disastrous results sufficient evidence in the eyes of the public, and that it spreads disease!! Even with the present modes of cultivating and manufacturing artificial vaccine, what do we know about its contents? Purity and safety—has it not been proven that people had small pox even 4 and 5 times and have been vaccinated regularly.

Dr. Jenner the originator, has lost his own son by experimenting, and began this policy, saying, "I wish my

professional brethren to be slow to publish fatal results after vaccination," and they have been obedient.

This is worth considering, every one should form their own opinion, let us accept truth for authority—and vaccination will follow other foul products of disease—and discarded animal extracts. In 1853 infantile syphilis followed the inauguration of compulsory vaccination laws in England.

Prof. Cruckshank of King's College, London, has made a thorough investigation of vaccination to get at the truth a few quotations from his great work on the History of Pathology of Vaccination. I gradually became so deeply impressed with the small amount of knowledge possessed by practitioners concerning cow pox—and other sources of vaccine lymph and with the conflicting opinions of leading authorities, that I determined that the profession has been misled.

We have submitted to purely theological teaching. He also referred to Sheffield where 98 per cent. of the population was vaccinated, 6,000 cases of small pox occurred in one epidemic. It cost the town \$100,000 to fight it. Count Leo Tolstoi has written to Mr. William Tebb, Surrey, England: "I greatly sympathize with your work against compulsory vaccination—as I do—with every struggle for liberty in my sphere of life. I wish you success in your work and I should be happy if I could have opportunity of helping you."

The only protective power against human small pox is true Sanitation, perfect health and a little old-fashioned remedy of cream of tartar taken once or twice a day, one teaspoonful dissolved in half a tumbler of water. This is a sure safeguard, when coming in immediate contact with small pox patients. Cream of tartar cools the blood and acts gently upon the bowels.

May my remarks be seeds for reflection, help to promote the general condition of health.

May also the unfolding of wisdom and knowledge be imparted from on high and abide to that honored body assembled here in the interest of science, and may the physicians who hold the lives of the country in their hands be men of natural ability, honor, integrity, in sympathy with their patients, full of knowledge and wisdom and common sense. Let us unite with the help of our ministers, in planting more seeds of kindness and may those at the head of the press be true to their pen and guide it from all existing errors, misled wandering minds for the sake of our country.



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GUNSHOT WOUNDS--SUICIDAL, HOMICIDAL OR ACCIDENTAL.

BY J. N. HALL, M. D., DENVER, COLO., (MEMBER MEDICO-LEGAL SOCIETY OF NEW YORK.)

So various are the wounds made by firearms that in many instances it is impossible to decide whether they are of suicidal, homicidal or accidental origin. In many instances, however, a decision may be arrived at with great certainty.

Homicidal wounds may differ in one point from those inflicted by a suicide or accidentally, for the latter are, speaking in a general way, characterized by the nearness to the body of the weapon inflicting them.* But this rule is often at fault, as in the cases of accident from set or trap-guns, so often reported, at a distance of several feet from the person injured. I knew of an instance in which a dog ran against a gun as it lay across a log, causing it to shoot the hunter some feet away. A similar instance has recently been reported in an Eastern State. On the other hand, a suicide may attach a string to the trigger of the weapon, and pull it with the aid of his feet, or push the trigger with a long stick, or otherwise try to make the wound have the appearance of having been inflicted from a distance,† so as to give an appearance of homicide.

Many homicidal wounds are inflicted, however, at very short range. I have personally seen many such, so that evidence of the proximity of the weapon at the time of the

*I have taken up this subject at length in "Gunshot Wounds in their Medico-legal Relations," Medico-legal Congress, 1893.

†See "The Dunbar case," Trans. Mass. Med-Leg. Soc'y., 1886.

shooting would only be of value when taken in connection with all the circumstances of the case. In many cases, the presence or absence of any design may be of more importance in the decision than any thing we are able to deduce from the appearance of the wound.

There can be no dissent from the statement of all the authorities that suicidal wounds are generally inflicted upon some portion of the system easily reached, and near which lie some vital organ or organs. Thus most of them are either found about the face or side of the head, or over the region of the heart. Occasionally they are found in the abdominal region, the neck, or the chest. They should, as a rule, be such as might have been inflicted with the weapon found, if one is found, without assuming any unusual or trying position, on the part of the person shot. Thus one might shoot himself in the neck on the side of the hand in which the weapon had been held, if the weapon were a short-barrelled one, while the feat might have been impossible if the barrel were a long one. But one must not assume that the suicide necessarily held his weapon in the conventional fashion, for it is easily seen that the position taken to shoot at another would very likely be entirely different from that best suited to inflict a certainly fatal wound upon one's self. This will be touched upon later in this article in connection with a case. This point becomes the more striking if we remember that with the rifle or revolver it is practically impossible to shoot one's self, if the weapon be held in the normal manner, in a vital region.

In one of my own cases,* Dr. Clayton Parkhill, the attending surgeon, testified that the wound had a forward and upward direction in the right side of the neck, but, from the position of the tattooing and the brand, we were able to show that it was impossible that it could have been

*People v. Orns, Denver, Colorado, 1893.

inflicted by the weapon shown, in a suicidal manner, as charged, because it was impossible to place the hand in the required position, with any effort. It was thus proven that the person killed, (for the one of whom we speak survived and was tried for murder,) must have inflicted this wound, before being herself fatally shot, as no other person was in the room at the time of the shooting.

Then the wound would ordinarily be in such a position as could be easily reached by the hand which the suicide most commonly used. It could generally be learned whether the deceased was right or left-handed. This alone might almost decide the question. The well-known case of Hunter's, in which, from the circumstances and the appearance of the wound, he was led to believe that it was inflicted by a left-handed person, who was afterwards identified and convicted, is in point.

It may be possible that one may be able to hold a pistol in the position necessary for the infliction of a given wound, but not be able to pull the trigger while holding it there.* Such a case I once saw, in which the revolver, while in the hands of a witness physically resembling the deceased, could be held *by another* in the requisite position, but the muscles were thereby so cramped as to make it impossible to pull the trigger. The question at issue was, whether the deceased might not possibly have fired the weapon herself during the struggle for its possession, she being known to have had it at the beginning. I testified that, although I believed it possible that the woman might have pulled the trigger, I thought it very improbable, and it certainly was not possible with the witness upon whom we experimented.

The position of the body has been found by Casper and others to be of no special importance in determining the

*Loc. cit.

question we are studying. Many sportsmen, and, in some countries, poachers, are killed in the fields by accident, and if a body were found with the marks of a close gunshot wound, made by a sporting weapon, and especially if in contact with a fence or other obstruction, or in brush, where accidents so often happen, the presumption would be decidedly in favor of accident. This would be more especially so if the wound ranged from below upwards. Many instances of death have been reported from dropping the barrels of a shotgun upon the ground by accident, in cases where the stock and barrels have been carried separately, in poaching, in order that they might be concealed in the clothing. Such an accident would scarcely occur in the use of a breech-loading weapon, as the barrels would be unloaded when taken off.

If the death had occurred from gunpowder used in a very unusual way, as in Casper's case, in which the mouth was filled with powder, which was then ignited, the presumption would be decidedly in favor of suicide. There is commonly little opportunity for dispute regarding injuries from powder not used in firearms, since the surrounding circumstances lead to a correct judgment almost invariably. Homicide is practically ruled out, and the circumstances would commonly point definitely to either suicide or accident. Thus a man in the county in which I formerly lived lost his thigh from the bursting of an iron sleeve, such as fits over the end of a wooden wagon-axle. In one end of this he had drilled a vent-hole, that it might answer for a cannon. A case has been recently reported from Omaha, in which a turntable bolt was used in a similar manner, and burst with fatal effect. Death from any contrivance of such a nature would almost certainly be accidental, as a suicide would take some better understood and more certain means for accomplishing his end. Sui-

cide, however, would be indicated in those cases in which, for instance, the mouth had been damaged, as in the case of the anarchist Ling, who practically blew off the top of his head with some form of dynamite bomb.

The fact that one was killed with his own weapon would be *prima facie* evidence that one had committed suicide. But many cases have been recorded in which an adroit criminal has used the weapon of the deceased purposely to make it appear to be a case of suicide, and thus conceal his own part in the crime. It is found that many of the soldiers of European standing armies, amongst whom suicide is very frequent, choose their own weapons for the commission of the deed.

The presence of two quickly mortal wounds would generally militate against the theory of suicide, and especially if it could be shown that the first one inflicted had caused unconsciousness. But Taylor quotes a case in which an undoubted suicide shot himself in the mouth, causing a large, ragged wound, walked about and lost considerable blood, and finally reloaded his weapon and shot himself a second time with fatal effect in the posterior lateral aspect of the head. In a recently reported case, an insane woman twenty-six years of age, took chloroform, and then shot herself four times in the left breast. Dr. Hugo Mager, of Denver, has recently communicated to me the details of a case which he attended, in which a would-be suicide fired a pistol ball into the roof of his mouth, in such a way that it emerged at the root of the nose; not being rendered unconscious, he tried it a second time, but the ball took exactly the same course. Both bullets were found, and the patient, recovering, now wears a plate made by Dr. Hartung, of Denver, to cover the defect in the palate caused by the wound.

In this connection it should be stated that the presence

of two or more wounds may have resulted from the "running" of the fire in a cap-and-ball pistol or revolving rifle, although, because such weapons are becoming obsolete, such a contingency is unlikely in a case of suicide. The cause of the "running" of the fire from one chamber to the next is probably that the weapon has been exposed to wet, and, certain constituents of the powder being soluble, they coat over the outside of the cylinder, and, the water evaporating, an inflammable coating is left which carries the fire to the next chamber, passing by a loosely fitting bullet to the charge of powder. I knew of an Allen "pepperbox" pistol which was fired three times in succession from a single pull of the trigger, apparently because the gas from the burning powder, escaping backwards through the nipple, blew the hammer back, and, the trigger being still held back, revolved the cylinder, and fired three shots instead of one as intended.

In shooting double guns, especially if of poor make and somewhat worn, it is extremely common for the second barrel to be fired, if both barrels are cocked, because the discharge of the first barrel jars down the second hammer. This occurs so nearly instantaneously, however, that it is likely that both wounds would practically constitute one in such an event, I believe, although I have not seen such a case.

It is possible to learn something of the probability of suicide in a given case at times by noting the position of the weapon when found. Wharton mentions that if the pistol be tightly grasped in the hand in a case in which death has resulted from a quickly fatal wound, as in the brain, it almost certainly establishes the theory of suicide, as it has never been established that one can firmly grasp the handle of the weapon in the convulsive struggles preceding death, if placed in the hand after the shooting has

been done, although several unsuccessful attempts have been made to accomplish this end. Casper, after considerable experimentation, confirms this statement. In a recent Colorado case this matter was presented as follows: A man on foot shot one on horseback with a shotgun at close range, severing the spinal cord at the atlo-axoid articulation. He then, to justify the act, tried to make it appear that the rider was about to attack him with a large knife, placing such a one in the hand of the deceased. It was shown in the trial that the knife was not grasped by the fingers at all, and also that the deceased really did have a pocket knife in his hand at the time of the shooting. I advised the attorney in this case that the severance of the spinal cord in this manner would have instantly relaxed all the muscles, so that, in my opinion, it would have been impossible for any weapon to have been retained in the hand. The accused was convicted of manslaughter.

The fact that one hand is powder-stained may have a bearing upon the questions we are considering, and it will be discussed later in this article.

It was formerly stated that suicides were likely to load the pistol or other weapon with too much powder, so that it was imperfectly burned, and that the residue left in the barrel would stain the finger three hours afterward, if it were introduced into the muzzle; that the weapon was often burst by the excessive load; and also that the ball was often omitted by the suicide, in his excitement. Thus if either of the first two conditions were found, or if the wound were found to have been made by powder and wadding alone, the evidence was decidedly in favor of suicide. Owing to the immense difference in the different grades of powder, and to the fact that the same powder will cause one gun to become very foul where another one apparently similar will not foul after many shots, I believe no value is

to be attached to the first-mentioned matter. The application of oil, for instance, as in cleaning the barrel, will cause the gun to foul much more rapidly than otherwise. The second point is probably well taken; like the third point, however, it would scarcely call for investigation here at this time, since powder-and-ball pistols have practically passed by. In breech-loading weapons the ball could scarcely be omitted unintentionally because fixed ammunition is used in them. The point would probably be of some value in case one of the old weapons were used.

Du Boismont mentions that out of 368 cases of suicide by use of firearms, 297 were from wounds in the head, and of these, 234 from wounds in the mouth. Only 71 were from wounds in the chest or abdomen.

Unless committed in anger or during a struggle, homicidal wounds are shown to be generally in the back, or side of the person, inasmuch as the shooter can better make such a wound by stealth than in the front part of the body. But obviously this rule may have many exceptions, for it would lose its force during sleep, and possibly at other times. During the past summer the following case came up for trial in Pueblo County, and was presented to me by Dr. Hubert Work, one of the witnesses for the prosecution. A woman was found lying in her bed, with a wound from a .44 pistol ball through the head. It had entered near the nose, shattering the sphenoid plate, passing between the cerebral hemispheres and out two inches above and to the left of the occipital protuberance. The neck and face, excepting the chin, and also both palms and one wrist, were thickly sprinkled with powder grains. The defence unsuccessfully attempted to show that the woman had turned from her side onto her back after this wound was inflicted, claiming that it was caused by accident, and that the pistol had been lying at the time of discharge on the

top of a trunk near the bed. The ball, however, had passed through the bed into the floor. It was evident that the powder staining could be explained only upon the supposition that the woman had raised her hands and forearms to ward off the danger, the wrists being crossed so that one had been protected from powder-stains by the other. This attempt to protect her face was evidence that she must have seen the danger—in other words, must have seen her assailant. The course of the bullet, as Dr. Work proved conclusively, was alone sufficient to disprove the possibility of accident as alleged. Suicide was out of the question, and the accused was convicted of manslaughter.

The question sometimes arises whether wounds were really inflicted by another person, as alleged, for those who have unsuccessfully attempted to commit suicide may attribute their wounds to an attempt at murder, in order to cover their shame and disgrace. It is likely that this would oftener occur in case the wounds were made by other weapons, especially the knife. The case would have to be settled upon the general principles already given, although the circumstantial evidence and a consideration of the motives governing the injured person might often be of more value.

The wounds made for the purpose of exhorting charity, or of diverting suspicion from one's self, are apt to be slight in character, and in non-vital parts that may easily be reached by the right hand, or the left in left-handed persons, and to bear the markings of near wounds. The hole in the dress may not correspond. The only case of which I have any direct knowledge was communicated to me by my father—that of a man who shot himself in the left arm to make it appear that he had been attacked, and thus cover his own tracks. He wrapped a damp towel about it, and then tried to shoot in such a way as to make only a

flesh wound. He shot too low, however, and struck the left radius, causing a serious wound. The powder-markings were prevented by the towel, so that there were no marks of a near wound, and his ruse was successful, permitting him to reach his own lines in safety again.

Should a body show the wounds of several different classes of weapons, suicide would be strongly suggested, for we are told that an unsuccessful attempt with one weapon often leads to an attempt with another. Many such cases are recorded. And yet this condition of affairs might well occur in an attempt at homicide, possibly even by design in some cases.

When more than one wound exists, one should learn whether they have been caused by the same ball, or by more than one, in the latter case possibly fired from the same barrel. I have seen six wounds from one ball in an antelope, it having passed through both thighs and the generative organs. Dr. F. J. Bancroft, of Denver, informs me that he has treated an exactly similar wound in the human subject. I have seen four wounds from the same bullet in a number of instances, and many have been mentioned by military surgeons, generally from striking both legs or thighs, or a limb in a flexed position, injuring the parts above and below the flexure. I once treated a man with a wounded foot, who had accidentally shot himself with a revolver while carrying it cocked in his hand, and found that the bullet had made five separate holes through the leather bootleg, this having been, of course, much wrinkled in front of the ankle, where the ball had passed. One should always attempt to place the parts in the position in which they were when injured, when this can be learned, when much light may be thrown upon the relations of the different wounds.

In studying the question we are interested in, it is of

much importance to bear in mind that many irregular occurrences have been noted, regarding the number of wounds inflicted by one ball. Thus the case of the grenadier in Algeria, so often quoted, is in point, he having been wounded in five different places by the fragments of one ball which had split into five pieces from striking upon a rock. The bullet may split and one or more parts remain in the body. Two parts may have emerged from the same opening. Hunter mentions a man shot with three balls, which left but two wounds of entrance and two of exit. Two of them had evidently passed through one hole, for all three were found sticking in the wall opposite. Woodman and Tidy quote the case of Peytel's in which the military witnesses testified that two wounds were from two different pistols. It seems to me that the exceptions offered by the authors are well taken, for, as they state, the pistol that fired the large ball might have fired the small one, either at the same discharge or at a subsequent loading. The "buck and ball" used so much at the beginning of our civil war contained in each cartridge, a round ball and three large buckshot, so that four bullet holes of considerable size were possible from a single musket at one discharge. As bearing upon the question of the use of a small ball in a weapon, I will mention the case of a station agent at Iliff, Colorado, who habitually used, very foolishly, to be sure, .38 cal. cartridges in a .44 cal. revolver; although I explained to him the loss of ballistic power involved, he insisted that the weapon shot well enough for him, and he was shortly afterwards arrested for attempting to shoot with it a man with whom he had quarrelled. Had he done so, the wounds would necessarily have been much less severe than would commonly occur from a weapon of the power of the one which he used, if properly loaded.

A wound inflicted in the back of the head, or in any other portion of the person not easily accessible to one endeavoring to commit suicide, and not accounted for by accidental means, would generally be considered homicidal. On the other hand, as Taylor has mentioned, a wound in the mouth or temple would rarely be attributed to accident, unless circumstances very distinctly pointed to such a possibility; but of course such a wound might be inflicted purposely by a designing murderer. We are cautioned by those dealing with the insane, that those who commit suicide with firearms, may place the weapon in the most anomalous positions, as, for example, at the back of the head, in order to carry out some insane design. But fortunately the fact of the insanity would generally be known, and would be of material assistance.

In case of doubt as to whether a wound be homicidal or accidental, one should try to learn, if possible, if the wound could have been inflicted when both parties were in the position claimed at the time of the discharge. The wounds of entrance and exit, and the general course of the ball, must correspond with the other facts of the case. If it were claimed that one had been shot by another whom he had been facing, and it could be shown that the wound of entrance was situated posteriorly or if it could be shown that the wound had a course distinctly upward, without any cause for deflection, in a case in which it was claimed that the shot had been deliberately fired from the shoulder, it might be possible to prove accident and not design. I have known the same question to arise in attempting to decide upon the relative degree of guilt of one accused of murder.

In the Smith-Boykin case in Denver, I was called by Dr. Hugh Taylor to assist in deciding whether a negro shot with a .44 pistol through the head had been attacked from

front or rear. The distance had been sufficient to prevent staining by powder. The skull had been very extensively fractured by the fall of the deceased upon a stone sidewalk, after the shot was fired. The wound in front in this case was much larger than that in the rear, but we were enabled to decide positively, chiefly from the appearance of the bone, that the wound had been inflicted from the front, in spite of the smaller wound of exit.

But a ball may be fired by one standing at another in similar position, and still have a direction slightly upward. In the recent Kroening case in Denver, Dr. Mager and I found that the abdominal wound had a course somewhat upward and inward. The accused stated that he fired the shot as he was in the act of raising his pistol, in taking it from his right-hand coat pocket. We were able to show, upon the stand, that the position assumed by one starting backward from alarm, as one might be supposed to do who was suddenly confronted by a loaded weapon, was such that the wound from a bullet might be exactly such as was found in this case, even if fired on a level. The bullet in this case had severed the left renal artery and caused death.

It is impossible to tell which of two wounds was first inflicted in many cases. Two instantly fatal ones may have been inflicted by two different missiles at the same time, and even by two different parties. If it were known that but one assailant were concerned in the case, and one wound were instantly fatal, it would be quite probable that it was the last one, unless it were shown that the shooting had been continued after the victim had fallen. In the last mentioned case we found that the first of three wounds had been the fatal one, severing the renal artery, but not causing death at once. A second shot fired immediately passed through the chest, when the victim ran about eighty feet and fell, apparently from shock and hemorrhage. The as-

sailant then fired two more shots, one striking the side of the head, both of the bullets being imbedded in the floor. As they struck at nearly a right angle, it was evident that they could only have been fired after the deceased had fallen.

Whenever doubt exists in these cases, it is very important to seek for evidence of a struggle, which, if found, may throw much light upon the case. Occasionally we may learn that one party has been making inquiries as to where a shot may be most quickly fatal, or how to load a weapon, or that he has been buying weapons or ammunition. Many curious efforts to cause harm to another or to prevent looked-for injury are brought to light at times. Thus I have known the husband of an adulterous wife to find that the firing-pin of his weapon had been tampered with, so that it was rendered ineffective, apparently, as appeared at the trial later, to prevent any harm to her lover in case of trouble between him and her husband.

It is stated by Taylor and other authorities that the hand holding the pistol may be stained with powder smoke from the discharge of the weapon, and that by this we may be able to prove in which hand the pistol was held. No mention is made of the style of weapon used in any case of this nature quoted. It is likely that flintlock pistols stained the hand more than those now used, although I have never tried one, for they are entirely obsolete in this country. It may be mentioned, however, that gunflints are still exported to Africa. But the modern revolver is so much better made that it is only with those which leak much about the joints or which are so small that the fingers reach forward so as to be stained by being placed opposite the front of the cylinder, which position is out of the question in a large weapon, that this staining is seen to any great extent, upon the hand holding the weapon. In any revolver of

such shape that the fingers come under or near the joints about the cylinder, however, this staining is likely to occur. But I believe the reason for the staining mentioned in certain cases, and notably in the one quoted by Taylor, page 694, is easily found, and I shall call attention to it after explaining the method of production of the stain.

Many poorly constructed revolvers have so much space about the cartridge after it is inserted into the chamber, or between the end of the cylinder holding the cartridges and the beginning of the barrel proper, that a certain amount of the gas generated in firing, leaks out, and thus stains or burns whatever it comes in contact with. I have burned my left hand by placing it under the barrel of the revolver to steady the muzzle on a number of occasions, in experimenting with poorly made weapons. Once with a .45 calibre arm I burned the heavy buckskin glove worn so as to nearly destroy its texture, over a space an inch in diameter, in this way. A similar staining may occur from the gas at the muzzle, from placing the left hand too far forward in supporting the muzzle in taking aim. If a piece of blotting paper be projected one-half the diameter of the bore beyond the muzzle, it is decidedly burned by the escaping gases. This staining is less from wood powder, as one would expect from its behaviour in the production of the brand, and I have not found any staining from the fulminate used in the "BB caps."

As may be easily determined by experiment, the staining upon the right hand is generally of such a nature as to make it possible to tell by examination of the weapon with which the shooting was done that it has originated in the act of firing the arm, and not in supporting the muzzle. With a .22 calibre revolver of my own, for example, the escaping gas always blackens those parts of the forefinger which, in pulling the trigger, come just opposite the front

and rear of the cylinder, upon the right side of the weapon, and sometimes of the finger and thumb on the left side of the cylinder which may be in the same relative position. The portion of the finger lying underneath the cylinder escapes, and this holds good, too, in the case of the supporting hand, inasmuch as the gas does not pass directly downward, owing to the solid metal frame intervening. By holding any given weapon in position for shooting, and determining what parts of the hand come opposite those places from which the gas escapes, one may learn where to expect the stain, and a few experiments will fully settle the question. This burning from the breech does not, so far as I am aware, feel at all uncomfortable, to the right hand, but in shooting to learn what part of the left hand receives the stain, in the act of supporting the weapon, one should wear a heavy glove, for at times the burning is decidedly annoying, and the impact of the escaping gases, even through the glove, feels like a rather sharp blow with a rattan.

If the barrel be obstructed, this staining and the force of the blow mentioned are naturally much increased, for the gas is compelled to escape through these openings, not being able to escape freely at the muzzle.

The staining of the left hand, when used to support the muzzle, is commonly found upon the palm, or the palmar surface of the first and second fingers. If the fingers be advanced so far forwards as to project beyond the muzzle, the parts so projecting receive the stain. But before giving an opinion on the former point, one should examine the weapon if possible, as some peculiarity in its construction might bring some other part of the hand in range of the escaping gas, which point could be easily determined by experimentation. If the pistol had been held in some unusual position, in order to shoot at the side of the head,

for instance, other parts of the hand would probably be brought into position to be blackened, according to the style of the weapon and the position assumed.

In the case of Taylor's referred to, everything becomes plain if we assume, as we may reasonably do, I believe, that the man, who was found dead with a bullet hole in his right temple, had steadied the pistol with his left hand while in the act of shooting, by seizing it by the muzzle. His aim would have thus been made absolutely certain, and, especially if he had used a long weapon, this would have furnished abundant reason for so supporting it. He might even have taken a firmer hold with this hand than with the right, leaving the latter free to pull the trigger, for, if the pistol were a long one, there would be difficulty in bending the wrist so as to take easy and accurate aim if the handle were held in the accustomed manner. Then, by either of the methods mentioned above, the left hand might have become stained on the inside of the fingers, as it is stated to have been, and the weapon might have been dropped upon the left side, as it was, because of the firmer hold of the left hand at the instant of firing. As to the wadding found in the left hand, we may easily assume that it rebounded from the head and lodged there, as this hand would have been close to the part struck. I feel that there can be no reasonable doubt that this was the method of the shooting in this case,

It should be mentioned that there is a certain amount of danger in supporting a cap-and-ball revolver with the left hand in front of the cylinder, for occasionally the fire "runs" as already mentioned, and several chambers are discharged in succession. A revolving rifle brought out about the beginning of our last war was condemned because of the danger of this accident, after several left hands had been destroyed.

It may be of importance in a case of multiple gunshot wounds, to learn, if possible, which wound has been inflicted by a certain bullet found in a particular location. Thus it was claimed in one of the cases we have quoted that a certain ball was one which had inflicted a wound of the face. If this claim was good, it proved that the accused in the case had not told the truth about the shooting. He stated in a straightforward way that he had fired two shots while standing at a point "A", one at "B", and three at "C". The victim had one abdominal wound, the bullet having lodged near the last dorsal vertebra, a second ball was found near the point "A", upon the floor, a third at "B", and two more at "C", each having been shot into the floor at about a right angle. The remaining one fired at point "C" was never accounted for, but inasmuch as several windows and a door were open at the time of the shooting, it is quite possible that it escaped without leaving any mark. Concerning the ball at "B" there was no dispute, for it had struck a desk and the iron of a revolving chair, there being no claim nor evidence that it had struck the deceased.

The prisoner stated that the deceased, who had greatly wronged him, placed his hand to his hip pocket as if to draw a pistol, when the prisoner fired the first and second shots. Inasmuch as these shots, from the positions which the two men had undoubtedly occupied at this time, were directed toward a smoothly plastered wall, where they must have left traces unless they were stopped by the deceased's body, they must have both struck it. One was evidently the ball found in the body, which had made the abdominal wound. The second one was as evidently the one found at point "A", its point having been battered by striking some hard substance, and in the grooves and crevices thus made, were many adherent fibres of grayish wool. In the right upper chest of the deceased was a bullet wound, the

clothing anteriorly cut rather than punched out, the skin wound inverted at its edges, and with the outer edge stained and depressed more than the inner, showing that the ball had struck somewhat obliquely. The second rib was perforated, with the projecting fragments pointing into the pleural cavity. The bullet had then perforated the lung and the third dorsal vertebra, and emerged through the skin and clothing of the back. In passing through the back of the gray woolen undershirt it evidently carried away some of the substance of the garment, the fibres having adhered to the rough places caused by the battering of the ball upon the rib and the vertebra. Passing on through the white shirt it had apparently been stopped by the suspenders, and had dropped to the floor. Everything, then, indicated that this was the identical ball which had made this wound, and that it had been fired from the front. It was apparently the second ball fired, as the defendant claimed that he had fired the first shot as he raised the revolver, and the second one after getting it up to the common position,

As the deceased started to run, the third shot was fired, in an opposite direction, this being the one which had struck the desk and chair. The victim fell at the point "C", where the final shots were fired, two being, as stated, imbedded in the floor, showing that they were fired after the fall. One of the shots fired at this place made the face wound mentioned.

It was important to know about these matters, because of the fact that the deceased had left a dying statement that he had been shot from behind. This statement was absolutely overthrown, no serious attempt being made by the prosecution to establish it, after the evidence was given concerning the bullet wounds. Largely because of reasons having no interest in this connection, the prisoner was acquitted, it having been shown that every statement as to

the shooting which he had made was absolutely confirmed by the investigation.

For "a case of homicide in which the location of the powder brand assisted in establishing the innocence of the accused," see Boston *Medical and Surgical Journal*, August 14th, 1890. In this case I was able to show, from the position of the brand below the wound, instead of above it, as is usual, that the shooting was accidental, since it proved that the shooting was done with an inverted weapon, in the attempt to strike the deceased over the head. The prisoner was acquitted. *

Finally we may state, that although some cases are most difficult to solve, the great majority, by close attention to details and study of everything bearing upon them, may be elucidated.

* People v. McLaughlin, Logan Co., Col., 1890.

HYPNOTISM IN THE CRIMINAL COURTS.¹

BY CLARK BELL, ESQUIRE.

President of the Medico Legal Congress.

ON January 14th, 1891, the standing committee on Hypnotism, of the Medico Legal Society, made a report to that body, claiming that certain facts were established, from which I make a few short abstracts :

“Hypnosis, or artificial trance sleep, is a subjective phenomenon.

“Hypnosis is recognized in three stages, lethargy, somnambulism and catalepsy.

“Hypnotism has been serviceable in Medical and Surgical practice, both as a therapeutic agent and in some cases as an efficient and safe anæsthetic.

“The illusory impression created by hypnosis may be made to terminate and tyrannize the subsequent actions of the subject.”

And among the legal questions raised by this report were :

Is hypnosis a justifiable inquisitorial agent?

Do we need a reconstruction of the laws of evidence in view of the perversion, visual or otherwise, created by the trance?

Is any revision of the penal code desirable in view of these facts?²

The replies of Prof. George Trumbull Ladd, of Yale; Prof. Paul Carus, of Chicago; Prof. William James, of Harvard; Prof. Joseph Jastrow, of Wisconsin, and Prof. C. H. Hughes, of St. Louis, to the questions raised by the above report, were extensive, interesting, and

¹ Read before the Medico Legal Congress, September, 1865.

² Vide, Medico Legal Journal, Vol. VIII, No. 3, p. 263.

formed the basis of a former paper by the writer on "Hypnotism and the Law."¹

The report of the three leading experts, in the Bompard case, Brouardel, Motet and Gilbert Ballet had also been made. In reviewing this report and the difference that then divided the schools of Nancy and of Paris, the writer said :—

"Prof. Liegeois and his confreres regard "Hypnotism" as a psychological condition ; Prof. Brouardel and his associates, as a pathological state."

"This trial does not therefore clear the air of the difficulties of the Medico Legal inquiry, whether crime can be committed by the suggestion of the hypnotizer of which the subject is the innocent and also unconscious actor ? Brouardel believed Bompard responsible." What most interests us now is the inquiry, can crime be thus committed by suggestion ?

In March, 1895, on the invitation of the officers of the Section on Medical Jurisprudence of the American Medical Association, the writer of this article prepared a paper upon this topic for presentation to that body at its May, 1895 session, and submitted the views of some of our leading scientists in answer to the following questions regarding hypnotic suggestion :—

"1. Can crime be committed by the hypnotizer, the subject being the unconscious and innocent agent and instrument ?

2. If the subject is unconscious and even unwilling, has the hypnotizer such power and domination over the hypnotized as could control action to the extent of the commission of a crime ?

3. Is it certain or possible, to remove by hypnotic suggestion from the mind of the subject, all the memory of acts or occurrences which happens in the hypnotic state ?

4. Would it be possible for a hypnotizer—to so control a hypnotized subject, as to, for example make him (1) sign a will in the presence of third persons, declare it to be his will, and to request them to sign as attesting witnesses, and be afterward wholly unconscious of the occurrence ; (2) or a note of hand, or a check ?

The replies to these questions elicited affirmative replies from Prof. G. Stanley Hall, of Clark University, Worcester, Mass. ; Prof. J. Mark Baldwin, of Princeton. ; George Frederiek Laidlaw, M. D., of New York City ; R. J. Nunn, M. D., of Savannah, Ga. ; and a substantially negative response from D. R. Brower, M. D., of Chicago, the chairman of that Section of the American Medical Association.

Prof. G. Stanley Hall replied : "I would say that my own experience with hypnotism, which was quite extended while I was at the

¹ Vide, Medico Legal Journal, Vol. VIII., p. 353, et seq. and Vol. 13, No. 1, p. 47.

Johns Hopkins, leaves no shadow of doubt but that a hypnotic subject can be made an unconscious and innocent agent of crime. Signing away of money has been done in France, and rapes have been committed. The penal code has been modified in important respects to meet such cases. All memory is sometimes removed from the subject mind, but not always."

Prof. J. Mark Baldwin, of Princeton University, and one of the editors of the *Psychological Review*, says, in response to the questions: To the first question: "Yes, I think so; the particular crime depending upon the mental and moral habits of the subject; each subject's suggestibility for crime seems to have its limits, at which he resists and refuses the suggestion."

To the second question he replies,—

"Not generally, although the subject may hesitate and make an apparent effort to resist, and then finally follow out the suggestion."

To the third question, he says,—

"Yes, indeed, such forgetfulness, after the subject returns to his normal state, is the regular phenomenon, not requiring any special suggestion." He adds, "the word 'certain,' in the question, is slightly ambiguous."

To the fourth question, as to both its first and second sub-divisions, he replies,—

"Yes, to each."

George Frederick Laidlaw, M. D., N. Y., replied:

"1. Crime can be committed by the hypnotizer the subject being the unconscious and innocent agent and instrument.

2. The operator usually can control the subject in conscious state only by a previous hypnotic sleep, in which suggestions were given to be carried out when subject became conscious.

3. The subject rarely or never remembers what has passed during the hypnotic trance. He will certainly forget the occurrences if ordered to do so.

4. If the operator had the subject in a hypnotic state he could compel the signing of papers, which act would be unknown to the subject. It is usually necessary to give verbal directions, and this would arouse the suspicions of the witnesses. The thing might be done by impressing the man that he was about to die and must draw up his will, sign, and ask witnesses to sign, and then let him go ahead."

Dr. R. J. Nunn, of Savannah, Ga., one of the Vice-Chairmen of the Psychological Section of the Medico Legal Society, and who some years since made extended experiments in this field of inquiry, replies as follows:

"My experience, limited, to be sure, would lead me to answer all the questions in the affirmative."

Dr. D. R. Brower of Chicago, chairman of the committee of the Section of Medical Jurisprudence of the American Medical Association, replied as follows :

"As to the first question, I do not believe that a person without criminal proclivities well marked could be, because :—1. A person cannot be hypnotized against his will ; and 2. A person so hypnotized is not absolutely, and in all things, under the domination of the will of the hypnotist.

"These two statements accepted, I think, throws hypnotism out of criminal jurisprudence."

Thomson Jay Hudson, while conceding that persons in a hypnotic state are constantly amenable to control by suggestion, denies that hypnotism has any place in criminal jurisprudence as a defence for crime.

James R. Cocke, M. D., in his recent work says that he does not believe that the average individual in the hypnotic state could be made to commit crimes—although the precise questions submitted were not replied to by either of these gentlemen.

The writer does not feel willing to submit any detailed statement of the various cases and authorities that have been submitted to him and investigated, because the limit of this article precludes any exhaustive treatise or citations. The purpose will be best served in stating what seems to be the consensus of thought and views from the legal side only, and as to what would be regarded by the bar, and held by the judges, in the courts of law.

1. Whatever may be the facts of the case, it is beyond all doubt, that the phenomena of the hypnotic trance and of so-called hypnotic suggestion, is not recognized as an existing fact, by the great majority of lawyers at all, and probably not by the majority of the Judges.

2. So far as the writer has had opportunity of judging, from physicians, with whom he has conversed, the large majority of medical men, especially in this city, and, indeed in this country, do not recognize it as a fact, and do not resort to it in their practice, and with very few exceptions, do not accept the existence of hypnotic suggestion as taught by either school of Paris or of Nancy, and very few have ever hypnotized others or been hypnotized themselves, and, as a rule, do not believe that they could be hypnotized.

Were the bar of the State of New York interrogated upon the first question of the letter above quoted, and the medical profession at the same time, it is the writer's opinion that at least 80 per cent., of the bar and 70 per cent., of the medical men would answer the question in

the negative, and in all instances in both professions with perfect ignorance of the subject, so far as practical knowledge or experience of the same is concerned.

To the other questions similar answers would probably be given by a like percentage of each profession.

3. In this country, in medical circles, there is, in addition, a very pronounced feeling of antagonism against accepting the existence of hypnotic suggestion as a fact, or to its practice as a therapeutic remedy, and this is stronger in the City of New York than elsewhere; and medical men who have investigated the phenomenon and know of its existence, hesitate to avow or announce it, for fear of injury to their professional standing among their associates, it is practically under the ban. But a large body of the most cultivated and advanced physicians hold different views.¹

4. On the contrary, on the Continent of Europe hypnotic suggestion is everywhere recognized as a well-established scientific fact, and men of the highest character and professional attainments devote their best efforts to its study and elucidation, and while many practice it for fraudulent purposes and dishonest ends, and exposures of imposters are as common there as here or elsewhere, there would be no respectable portion of the medical profession who would doubt its existence as a fact, or be wholly ignorant of its phenomena.

All who have witnessed the usual so-called experiments in mesmerizing, hypnotizing, etc., have been left in little doubt that the most of it was fraudulent, and this more than any other one cause has brought the whole subject into public distrust, not to say odium.²

There are however, a few careful observers here who have studied the subject in the medical profession, and who make use of it in their practice, and whose testimony should have great weight.

One witness who saw a fact and spoke positively of his own knowledge concerning it is of more weight and entitled to fuller credence than one hundred who did not see it, and who knew nothing of it, all being of equal candor and veracity.

The familiar example of the one man who did hear the clock strike in the room with ten others who did not hear it aptly illustrates the rule.

The question before the courts will always be one of fact for the jury:

(a) Was the accused, in the condition known as the hypnotic trance or state?

¹ Vide a paper by Henry Hulst, M. D., one of the Vice-Chairmen Psychological Section on "Mental Suggestion," N. Y. Med. Record Mar. 4, 1894, reviewed in *Medico Legal Journal*, Vol. X, No. 4, pp. 414-15.

² Vide Ernest Harts *Exposures of Frauds*, in *Hypnotism Medico Legal Journal* Vol. X, No. 4, p. 418.

(b) Was his mind under the control or domination of the hypnotizer?

(c) Did the accused, at the time of the act, know of the nature, character, and effect of his act, or was his act caused by the domination and will of the hypnotizer, either in conscious or unconscious states?

From what has gone before, the necessity of a full and careful examination of this subject is apparent.

The bench cannot be expected to conduct any experimental work in determining the limits of hypnotic suggestion.

No such duty rests upon the bar as a whole, although individual labor of lawyers like Mr. Hudson of Washington, D. C., is of great value.

The duty falls naturally upon the medical profession, or those few men among it who are giving their best thought to its elucidation.

Dr. Henry Hulst, of Grand Rapids, Mich., one of the Vice-Chairmen of the Psychological Section of the Medico Legal Society has established a clinic in that city where for a long time hypnotic suggestion has been used with signal success and usefulness, as a therapeutic remedy in various forms of disease.

What has been done successfully in Grand Rapids should be attempted surely in our large cities, like New York, Chicago, Philadelphia, St. Louis and Boston.

Who will lead among medical men in clinical work on the basis of the labors instituted by Dr. Hulst? This is the true road to successful results, to which it is the plain duty of medical men to address their studies.

It is as unwise for the scientific man to dismiss the whole subject without a trial, as it would be to accept it without judicious and careful trial and experiment.

This is one of the labors of the Psychological Section of the Medico Legal Society, to which the attention of students is especially called, one to which courts of law are now looking, and a field in which the medical profession should work assiduously for the enlightenment of bench, bar, and the general public.¹

In a discussion on this subject in the Medico Legal Congress Dr. Wm. Lee Howard of Baltimore, in speaking of the experiments he had made in Baltimore said:

"That it was time laws should be passed regulating and controlling hypnotic experiments and practice.

"In his experiments he has drawn the line at arson and murder." He had gone one step further and repeatedly attempted to induce subjects to make felonious attacks on persons under the most aggra-

¹ Advance sheets Medico Legal Journal and Bulletin Medico Legal Congress.

vating circumstances without securing the least indication of obedience, saying further :

"For instance, while my subjects would stab right and left with paper daggers, yet when a real dagger was placed within their hands they have invariably refused to use it, even when suffering the greatest provocation. I account for this on the ground that a person in the active hypnotic state possesses a dual existence, and is perfectly conscious of what he is doing. In most cases he will carry out the expressed wish of the operator, provided it does not affront his sense of propriety or seriously cross his ideas of right and wrong.

"For several years, I have made use of hypnotism in surgical practice, and my experience in this direction leads me to the conclusion that hypnosis is a mental state rather than a physical condition, such, for instance, as ether and chloroform narcosis. Time and again have I had patients, who responded to all the tests of hypnotic anæsthesia before the operation, when called upon to face the actual ordeal come out of the hypnotic state, the fear of the operation being a stronger suggestion, than that of the operator, consequently the subject awakened, obedient to the law of self-preservation, which is never set aside, even in the profoundest hypnotic state.

"In conclusion, let me reiterate my basal proposition: Given a criminal or immoral subject and a hypnotist of like character, and criminal or immoral results may be obtained."

"But shall a natural force of greater potency be condemned simply because it may be occasionally misused?"

"I have made the ex-Governor of Maryland give me his note of hand. I have also hypnotized the cashier of a bank, and caused him to go to the vault and take out \$5,000, and if I wanted to be disreputable I could get a yacht for to-morrow's race. You will thus see how dangerous a force hypnotism is, and the necessity of its being regulated by law and its use confined to physicians. Hypnotism is a fact, and a man who disputes facts is a subject for instruction."

Dr. Forbes Winslow said in that discussion that "the popular belief that it was only persons of weak intellect who could be hypnotized was a fallacy. Persons of strong will were equally liable to become the subject of hypnotic suggestion."

Dr. Grover of Massachusetts related a case where a young woman in New England, afflicted with tuberculosis, had been cured through repeated hypnotic "suggestions."

The venerable Judge A. L. Palmer, who has recently resigned from the supreme bench of New Brunswick, said in his address to the Medico Legal Congress—in relation to this subject: "This department of psychological medicine is one which all jurists are coming to

the conclusion, demands more examination in the future than we have been able, or even willing, to give it in the past.

"The relation of hypnotism to crime is forced upon judicial attention, and we must consider it, and be in a position to pass upon the questions it presents, in accordance with the well settled principles of law."

"When Professor Sidgwick, of Cambridge, at the head of the English Society of Psychical Research, is willing to assert as the result of a long series of experiments conducted by that body, his belief in telepathy, as he defines it, we may differ with him in his views and criticise the method of investigation in and by which he has made up his opinion, but we cannot avoid facing the issues presented, or escape considering the weight and force of the evidence on which it is based."

"I cannot claim to be even a student of the subject of the experimental side of psychical research, I have not been able to bring my mind to admit what is claimed by the more advanced students of the science, but I am of those who believe truth has nothing to fear from the investigations now proceeding in various parts of the world in this domain of scientific investigation, and I trust that the papers presented here will aid in the elucidation of questions of general public interest and concern."¹

Prof. W. Xavier Sudduth of Chicago, Chairman of the department of Experimental Psychology at the same Congress presented a paper, on hypnotism and crime, in which he stated :

"The wide difference of opinion regarding the relationship of hypnotism and crime existing in this country and Europe has long been a matter of comment. Prominent authorities on each side of the water, with but few exceptions, reject the idea of the possibility of successful criminal suggestions under ordinary circumstances, while many European writers freely admit and deplore the supposed possible misuse of this new odd force for criminal ends, although they cite no well authenticated cases to prove their fears.

"Many years' experience with use of hypnotism in laboratory and clinic, upon widely differing classes of subjects, makes me feel safe in saying that under all conditions when the subject is capable of carrying out a criminal suggestion he is sufficiently conscious of his own volition to decide whether he will carry out the suggestions or not. This being the case, he goes ahead regardless of the law of intent and becomes a 'particeps criminis,' an 'accessory before and after the fact,' and should be held equally guilty with the instigator of the crime. A criminal he surely is, but hardly a 'criminal character' in the sense in which I have been accustomed to use the term."

¹ Advance sheets Medico Legal Journal and Bulletin Medico Legal Congress.

Dr. U. O. B. Wingate late health commissioner of Milwaukee, Wisconsin and Vice-Chairman Section on Psychology, Medico Legal Society, in a valuable paper read before the International Medico Legal Congress at Chicago, August 1893, entitled "Suggestion not hypnotic, and crime," summarized his conclusions as follows:—

"1. There are many persons who are on the border line of irresponsibility.

2. Such persons only need certain forms of suggestion to cause them to commit criminal acts.

3. Suggestions of crime are largely disseminated by published sensational accounts of criminal acts and evil doings, and by certain pictures posted in public places.

4. Suggestion of crime is often contagious among a certain number of persons possessing partially unbalanced minds.

5. Organized effort can do much to prevent crime, by investigation and study of the phenomena of criminal suggestion.

6. Efforts should be made to suppress and regulate the production of the large amount of unhealthy suggestion now being disseminated, and such work is as important and promises as good results as the efforts being put forth to control contagious physical diseases."¹

Dr. T. D. Crothers of Hartford, one of the Vice-Chairmen of the Psychological Section Medico Legal Society in an article entitled "Hypnotism" says: "I am inclined to doubt this power to make a person do a criminal act, unless the mind is already criminal in its instincts."²

On the same subject Thomson Jay Hudson, Esq., of the Washington bar, author of the "Law of Psychic Phenomena," and other works, has contributed a valuable paper upon the "Legal Status of Hypnotism in Medical Jurisprudence."

Hudson adopts Berheim's definition of hypnotism "as the induction of a peculiar physical condition, which increases the susceptibility to suggestion," with one modification, viz, substituting the word "induces" for "increases."

Hudson accepts Liebault's views as now universally received of the law of suggestion among scientists with a few important exceptions.

This law is stated as follows:

"Persons in a hypnotic state are constantly amenable to control by suggestion."

Mr. Hudson combats the view of the Charcot school, who claim that hypnotism can only be induced in hysterical persons, and adopts

¹ Medico Legal Journal Vol. XI., p. 223, and Bulletin Psychological Section Medical Legal Soc. Vol. I., No. 4, p. 78.

² Bulletin Psychological Section Medical Legal Soc. Vol. III. No. 1, p. 30.

the contrary view, which is fast becoming universal among those who have investigated the subject.

He claims that hypnotism has no legitimate place in criminal jurisprudence, and while he concedes "that a criminal hypnotist, in control of a criminal subject, could undoubtedly procure the commission of a crime under exceptionably favorable circumstances," he illustrates that it practically in such a case would not be a legal defence on the ground: (a) Because, in the nature of things, a hypnotized subject can have no standing in a court of justice, as a witness. (b) The cross-examination of a subject as to the nature and extent of the suggestions made to him by the hypnotizer would be quite impossible and absurd.

Jas. R. Cocke, M. D., in a recent work published by the Arena Publishing Co., Boston, speaking upon this subject, says, "I personally do not believe that the average individual in the hypnotic state could be made to commit crimes," and quotes Prof. James of Harvard, as stating:

"That while for a time the will and other faculties are in abeyance, they are not wholly extinguished, and if that command is very repugnant to the hypnotized subject, he will not go beyond certain limits in its execution."

He cites an interesting experiment of a young girl thoroughly hypnotized, who could not be induced to stab a man with an actual knife, when commanded to do so, and he asserts in some thirty or forty experiments with different people, he had always similar results.

The more prominent cases which have excited the attention of the professions of law and medicine are:—

1. The Bompard Case. Within the scope of this paper the time will not permit a review in detail of this celebrated case, but the writer is of opinion that the general impression of scientists who have carefully studied it, agree that hypnotic suggestion did enter largely into the crime itself, in this instance.

2. The case of Czesław Lubicz Czyski has excited very great public interest. He was born in Turenk, Poland, and comes from an old Polish family. In 1890 he was a teacher of the French language in Craeow, Austria. Turning his attention to hypnotism, he went to Paris and began giving public hypnotic exhibitions, against a strong public prejudice existing in many European states. He was expelled from Bosen by the police, and resided in Dresden, where he met Baroness Hedvig von Zedlitz, a very wealthy, highly respected and religious woman of thirty-eight years, who responded to his advertisement, and whom he treated for her malady by hypnotic treatment, to which she submitted under his advice. This treatment at first, was by touching

with his hands the parts of her body where the sources of her illness were located, viz: the head and stomach. It lasted for several months, during which time their relations became more intimate and Czynski suggested to her, after he had placed her in the hypnotic sleep, love to himself. He represented to her that he was the last descendant of an old Lithaais ducal family, and for that reason their engagement and the subsequent marriage must be kept private. She followed his advice and the suggestions, and a false marriage was performed by a friend of Czynski, who personated a priest. He also made her believe that she was born to save his soul, and he undoubtedly, by hypnotic suggestions, controlled all her actions so far as the consent to that marriage and the relations which existed between them.

He was arrested Feb. 16, 1894, and was tried in Munich, Bavaria, Dec. 17, 1894. His trial lasted three days, and created a profound sensation throughout Europe. He was found guilty, convicted and sentenced to three years in prison.

3. The Kansas Case of MacDonald, acquitted by a jury upon the charge of the murder of Patton, whom he shot, and the trial and conviction of Gray, as an accessory before the fact, has excited great public interest. The newspaper press having very generally asserted that MacDonald was acquitted, and Gray convicted, on the ground that Gray had controlled MacDonald by hypnotic suggestions and influence over him to commit the act.

This case, however, has been misrepresented. Through the courtesy of Chief Justice Horton, of the Supreme Court of that state, and in communication with counsel for the defence of both Gray and MacDonald, the conclusion has been arrived at as stated in the "Kansas City Journal," which in commenting upon the decision of the Supreme Court, affirming the verdict of the jury, says "that Chief Justice Horton, of that bench," had stated "that hypnotism was not in any way whatever an element of the case," and the conviction of Gray was based upon the evidence of MacDonald, which clearly justified the jury in finding that he was an accessory in the killing before the fact; so the Kansas case must be dismissed from the consideration of the subject.

4. The Minnesota Case. The writer has not been able to investigate the details of this case, but thinks the view taken by H. Merriam Steele, Esq., in the April number of the "North American Review," the safe one to follow, and that it would be quite outside of any legal experience to accept, as entitled to any credit, the "waking story" of murder committed by the accused while under hypnotic influence. Such statements should be entitled to no credit, and no authority justifies the position that the subject, on awakening from

a hypnotic trance, could remember all or relate anything done while under hypnotic influence; and it would be a very unsafe proposition of law in regard to testimony, to place a witness in a hypnotic trance, and to accept as truth the statements of events that he in that state described as having occurred at a previous time.

These four above cases are only cited, and the foregoing article submitted to show the urgency and importance of considering the general proposition as to how far hypnotic suggestion is a legitimate factor in determining criminal responsibility.

THE LEGAL RESPONSIBILITY OF THE
MUNICIPAL GOVERNMENT
FOR THE ACTS OF ITS EMPLOYEES, MORE ESPECIALLY IN
THAT BRANCH OF THE DEPARTMENT OF HEALTH
KNOWN AS "AMBULANCE SERVICE."

L. D. MASON, M. D., BROOKLYN, N. Y.

The responsibility of the municipal government for the acts of its employees, is a question not only of especial interest to the municipality, but also to the public at large.

What redress has a person who may suffer either in his property or person from the mal-administration of any of the Departments of the city?

Has he the same privileges to recover damages, as are extended in an ordinary civil suit against an individual or a corporation—or is he debarred from such privileges?

In regard to certain departments of the city, from whose mal-administration he may suffer damage in person or property, one may bring suit and secure damages. But does this apply to all the city departments?

A practitioner of medicine or surgery is amenable to the law in a civil suit for damages, which, should the occasion arise, the oppressed or injured party may bring against him; but on what ground, if any, may the same physician be guilty of malpractice, and acting in the capacity of a medical employee of the municipal government as such, apparently be exempt from prosecution?

We know that medical practitioners are more or less subject to suits for malpractice—in the large majority of cases brought unjustly. How is it then, acting in the capacity of ambulance or police-surgeon, a medical man,

guilty of gross malpractice, may escape the consequences of his acts?

Thus he may direct or give his sanction to the placing of a person, seriously injured, in the cell of a station house and, for hours it may be, deprive said person of the prompt and skillful care which his case imperatively demands.

Here is certainly a flagrant case of mal-practice—which if it had occurred in the case of a regular practitioner of medicine would have placed him in a most serious position and made him liable for heavy damages—and yet such cases have and do repeatedly occur in all our large cities—and the ambulance surgeon or other medical representative of the public service is the principal party in the offensive act. Certainly such treatment could not take place without his suggestion and consent and certainly would not take place under his direct protest. There are instances where the police have acted on their own responsibility without the intervention of the ambulance or police surgeon or other medical advice, but such cases are exceptional.

The fact that the medical officer concerned in the mal-practice pleads with his confession of guilt as an extenuation, ignorance or an inability to make a proper diagnosis, owing to the fact that the case simulated alcoholic coma, or was complicated with alcoholic intoxication, or that there was the odor of alcohol on the breath does not and ought not to modify the charge of mal-practice. It would not in a case of civil suit brought against an ordinary practitioner—it ought not to when the party guilty of mal-practice is a servant or employee of the municipal government.

If a person is driving down one of our thoroughfares and, owing to want of proper repair, or from some fault in the roadway, an accident occurs and the person or his property

is injured, he recovers compensation from the city for the damages he has sustained, as the city is responsible, through its department of public works, for the safety of its driveways. Now if the same individual is seized on the street with paralysis, or falls and sustains a fracture of the skull, or from disease or injury becomes confused or comatose, and in this condition comes under the notice of the police, an ambulance is summoned, he is examined by the ambulance-surgeon, a slight odor of alcohol may confirm his suspicion. He is then pronounced "dead drunk," placed in the station house cell to sleep off a supposed debauch; next morning he is found dead; an autopsy reveals fracture of the skull. His friends have no redress, it was not malpractice—there was no practice—the man died without it; simply a mistake, that is all; then a mild censure from a coroner's jury, an admonition to do better next time, a little agitation in the public prints, an editorial or so, a slight tremor through the public mind and a looking forward to a much desired improvement which, like the "law's long delay" and hope deferred, makes the heart sick.

It is a strange fact that a field so fertile for the rising lawyer to exercise his talents in and secure public recognition has been so long neglected. Is this due to the fact that there is no redress—that the city at least in the Department of Health and its various branches is not responsible for the acts of its employees?

This question is of importance and is presented to this Section, composed as it is of both lawyers and physicians, as a most intelligent jury for their consideration.

The good results of proving the full responsibility of the city government for the acts of its employees in these cases of mal-practice in its medical service would be greater care on the part of the city in the selection of its medical em-

ployees, and also when "mistakes" occur a more thorough investigation of the cases and the conduct of the officials at fault and the prompt dismissal from the service or other punishment of the guilty parties culpable of ignorance or neglect or both.

Moreover where hospitals or other institutions are involved, who, by their refusal to admit a case contribute to the further injury or death of the person, a rigid investigation would include their action also.

The medical profession for a long period have been cognizant of a much needed improvement in the case of persons who are found in a stupid condition on the streets, and whose cases not infrequently simulate alcoholic intoxication, and may be complicated with it. Leading medical men, at home and abroad, have given attention to the improvement of the public medical service and to the correction of the evils which attend its administration.

Dr. John Morris, of Baltimore, as long ago as 1879 called attention to the improper treatment of this class of cases by the public medical service, or rather more often the absence of any intelligent treatment.

Dr. Norman Kerr, of London, England, in an article on the "London Police and Their Procedure with Persons Found 'Dead Drunk on the Street,'" subsequently called attention to the improper methods of dealing with such cases.

Medical men of prominence in all cities, both American and foreign, have protested against the mal-administration of the public medical service in such cases.

A paper was read before the Neurological Section of the American Medical Association, at its last meeting, held in Baltimore, and the views therein expressed by the writer calling for a better administration of the public medical services in the case of persons who are found by the police

or others in a comatose condition on the street or elsewhere, received the endorsement of the Section by a special resolution.

But while medical sentiment, and humanity itself, deprecate the errors and abuses that affect the public medical services in these particulars, they seem to be impotent, as far as affecting a change is concerned, and turn their eyes anxiously to the law for relief.

This must come through well-regulated laws, with accompanying penalties, but especially extending to the aggrieved parties the right in such cases to bring damage suits against the city.

The law must decide that the city is responsible in such cases and test suits should be brought to establish the validity of such claims. That is the right of the individuals or his friends or relatives to bring suit against the city in all cases of mal-practice on the part of its medical employees.

The "Medical Society of the County of Kings," Brooklyn, N. Y., has, during the past few months, given much attention to this branch of the municipal government, and its views and recommendations are included in the following circular, which is here appended and which has been extensively circulated among the medical profession. It will be of interest to the legal members of this Section and Society, and may be of value in assisting in the formulating of laws that shall improve the medical service of the city government, more especially that branch of it known as the "Ambulance Service."

At a meeting of the Medical Society of the County of Kings, held February 20, 1894, a Committee of Three was appointed, "to report to the Society what means have been provided in the city of Brooklyn for the immediate care of persons found unconscious on the streets." The Commit-

tee made a preliminary and a final report, from which I quote:

“RECOMMENDATIONS.

1. Whenever a person is found in an unconscious or semi-conscious state on the street, or elsewhere, away from his own home, the police, when notified of such case, shall immediately summon medical aid; sending for the ambulance surgeon, or for the police surgeon; or in towns, where there are no such officials, then for the nearest physician, who should be compensated for his services by the authorities.

2. The police shall not decide as to the disposition of such a case, but must wait the decision of the ambulance surgeon, police surgeon, or of the physician called, and must act in accordance with such decision.

3. A police officer who acts in opposition to such decision should be by the ambulance surgeon, police surgeon, or the physician, reported to the Police Commissioner, who should subject such officer to discipline, rules governing such cases having previously been made and promulgated.

4. Ambulance surgeons should give prompt and immediate aid to patients found in the condition hitherto described, and remove them to the nearest hospital, or to their homes when ascertainable, according as their judgment dictates is the best course to pursue in the interest of the patients. The existence of an alcoholic complication in the case should in nowise adversely influence the surgeon or physician called as to the disposition of the case, as such a complication often renders skillful medical treatment the more imperative.

5. Ambulance surgeons, and other medical men, brought in contact with cases in which alcoholism is a frequent complication, should be reminded that this condition often renders an immediate diagnosis impossible in the more serious and oftentimes fatal forms of cerebral disease and injury, as well as in other diseased conditions.

6. The examination of ambulance surgeons should include the differential diagnosis of alcoholic coma from other forms of coma, and the various diseases or injuries that may produce a condition simulating alcoholic intoxication.

7. Hospital authorities receiving financial aid from the city should not refuse admittance to patients suffering from supposed alcoholism, for in so doing they are liable to be contributory to the death of such patients. They should know, that if the condition be one of uncomplicated alcoholism, this fact will in a short time be revealed, and other disposition may be subsequently made of the case; while, if the patient is so affected as to need immediate and skillful treatment, his rejection by the hospital authorities may conduce to a fatal result. If they refuse to receive such cases, because complicated with alcoholism, they should be held legally responsible for the results. And, further, if such refusal is persistent after their attention has been called to the matter, the city authorities should strike the name of such hospital from its list of beneficiaries.

8. The municipal authorities should also consider the question of the establishment of a special emergency hospital, or hospitals, conveniently located with reference to the various districts of the city; or a system,

similar to that of the Bureau d'Admission in Paris, connected with which there is a special hospital for all cases of alcoholism, or cases complicated with alcoholism, that may occur in the streets of that city. Or, the authorities might consider the establishment of a special department in connection with the hospitals of the city, similar to the "Alcoholic Wards" of Bellevue Hospital, New York, where more than 4,000 alcoholics are annually treated. Such a plan would relieve the general hospitals of the burden of such cases, or compel them to make special provision for their care. Should the existing methods prove inadequate, the Committee recommends some such plan as is here outlined.

It is the hope of the Committee, now that the attention of all concerned has been specifically called to the matter, that they will coöperate in such a manner, by adopting rules and otherwise, so that methods will prevail in Brooklyn and other cities in the management of cases of the nature described, such as exist in most European cities. If this is done, then persons who are rendered unconscious from any cause on the streets or elsewhere, will receive prompt medical and humane treatment, and will escape the danger of being thrust in a cell as 'drunks,' and there left to sleep off the supposed debauch, which in no inconsiderable number of cases has proved to be 'a sleep that knows no waking.'

The recommendations of this circular are in keeping with the spirit of the resolutions already adopted by the Medical Society of the County of Kings, and with the practice pursued in the principal cities of Europe. No attempt has been made to treat the subject exhaustively, or to give in detail rules and regulations, which can only be done by the respective authorities of a municipality. It is hoped, that wherever a similar defect exists, similar remedies will be applied. We invite the aid of medical societies and the medical and secular press in procuring the desired reformation.

Committee: { J. H. RAYMOND, M. D., *Chairman*.
 { JOHN C. SHAW, M. D.
 { LEWIS D. MASON, M. D., *Secretary*.
 171 Joralemon Street."

THE LEGAL RESPONSIBILITY IN INEBRIETY.

BY T. D. CROTHERS, M. D., HARTFORD, CT., SUPT. WALNUT
LODGE HOSPITAL, VICE PRESIDENT MEDICO LEGAL
CONGRESS, ETC., ETC.

A serious crime is committed by a person intoxicated in the general sense, or at least, absolutely under the influence of alcohol; a will is written while the person is using spirits to excess; an important contract is made and signed in this same condition; a course of criminal conduct is followed, and the actor is using spirits constantly to excess.

Such cases come into court. The counsel turn to the physician for help. There is some abnormality in each instance. The acts are without the pale of reason, and the continuous use of spirits clearly disturb the natural common sense line of conduct of the person. The lawyer turns to the rulings of judges in similar or allied cases, and the physician to text books of medicine and medical jurisprudence. Both fail; while the lawyer finds rulings that apparently apply to such cases, he is conscious that they do not comprehend or recognize the real facts in issue. The more closely he studies these facts, the wider the discrepancy between them, and the theories of the law. The judge recognizes this inconsistency, but is forced to follow lines of previous rulings, and only along certain narrow limits dare he venture to express opinions at variance with others. The legal theories of these cases, are the outgrowth of the moral teachings of past centuries. Teachings that inebriety is moral depravity innate in every life, always ready to grow and develop, and particularly from

wilful neglect and gratification of the lower animal instincts. Also that inebriety is always a phase of savagery, or inborn tendency to lawlessness, to giving up restraint and control; indulging all the passions regardless of society, or the interests of others. The remedy is punishment suffering pain, and in this way building up the moral to control the lower animal.

Lord Coke's rulings three centuries ago, that inebriety always aggravated the offence, and should be followed by increased punishment, has been accepted and acted upon as the central truth in all these cases.

The physician who is called into court to assist in reaching equitable decisions in such cases, finds little or no help from the text books. Dogmatic statements and theories, that are obviously unsound and in conflict with the facts, comprise the largest part of so-called authorities on this subject. The physician turns to a study of the cases, and seeks to find out the facts as they are presented in real life. Here a new world of truth confronts him. The inebriety of the prisoner, or the case in question is found to be a physical condition that is both inherited and acquired. This physical condition is literally a disease, and is practically an obscure or pronounced form of insanity. In some cases the drunk craze is a symptom of insanity, and vice versa. When the symptoms of a large number of cases are studied and compared, they are found to follow a uniform line of origin, progress and development.

Taking up the story of alcohol on the system, it becomes clear, that the continuous use of alcohol, or spirits taken to excess at intervals, is always followed by degrees of brain and nerve palsy, paralysis, congestion and impaired and diminished activities. Alcohol in the system to excess, is always followed by incapacity of the senses and judgment, with lessened power of control. The degree

will vary widely with the amount taken, and the state of health, but impairment and disability is a physiological consequence, that is absolute, to which the exceptions only prove the rule. The legal theory on which the present administration of the law is carried out, assume sanity, and sufficient mental soundness to both recognize and act differently, the remedy for which is more severe punishment and accountability.

Practically this theory presupposes a degree of psychological knowledge, and capacity to distinguish lines of health and disease, that is far beyond any present attainments of science. The conclusions from a medical study of these cases, is that every case is one of physical degeneration, and progressive march downwards. A dissolution that follows a continuous line of cause and effect, that can be seen and recognized. These cases are not metaphysical theoretical states of the mysterious mind, and will power. They are actual tangible conditions that follow with absolute certainty, causes that may be known, and conditions that are traceable. The real medical jurisprudence of inebriety, is first a question of the facts in each case, and their meaning. Facts of heredity, of growth, of culture, and health; facts of disease, of injuries, of degenerations, local and general, of the influence of surroundings, of occupation and climate and all the history, physiological, pathological and psychological. From these facts only can any clear intelligent conception be formed of the act, and its motives. When this is settled then the legal question of what shall be done, and what disposition will more accurately serve the cause of justice will appear. The medical jurisprudence of inebriety theoretically aims to check and prevents illegal acts by inebriates. But practically and literally the very opposite effects follow. Experience of all courts in this country and Europe, agree that capital punishment for

murder committed by inebriates, never deters other inebriates from committing similar crime. Yet notwithstanding this fact inebriates are tried and executed daily all over the country.

Fines and imprisonment for illegal and criminal acts, are not only absolutely worthless as deterrents, but increase the very condition which it proposes to check. The physiological fact in these cases is that legal penalties which are supposed to appeal to the higher moral brain, make no impression for the reason that the higher brain is so impaired and palsied that it cannot recognize or respond to these influences.

The question of the legal responsibility in any given case where spirits has been used before and during the act in question, must be decided from a study of the mental health of the man. If there is a reasonable doubt of the mental soundness at the time the act was committed the degree of responsibility will be changed. If there is evidence of delusions, or strange unusual beliefs which influences his conduct and warps his judgment; or if his mind acts in an impulsive unreasoning way, apparently under an irresistible impulse, that is beyond his control, incapacity should be expected. The question of capacity to distinguish between right and wrong, in all these cases is difficult and confusing.

The immediate effects of alcohol is to obscure and break up this power of discrimination between right and wrong.

The use of alcohol is always followed by an increase of the heart's action, and later a corresponding diminution of the flow of blood. This increased heart's action is followed by unsteadiness of brain force and activity. The increase of the heart's action extends to all parts of the body, giving the appearance of greater power, then after a time lessened power and energy, until stupor comes on. In all

men who use alcohol occurs this alternation of exhilaration and depression, and when this is repeated for years positive damage follows. First of all, the senses become impaired, and this always darkens knowledge and misleads the judgment. This follows from the fact that accurate perceptions are wholly dependent upon definite and normal sensations. When the senses are disturbed and impaired perceptions are correspondingly disturbed; they are unable to present the facts to the mind as they are or as they really exist in the surroundings.

The fine shadows, the uncertainties and doubts which attend all human transactions escape the notice of the inebriate; hence he imagines they do not exist. Hence the more alcohol he uses the more positive things appear; they have the quality and energy of absolute demonstration. He never doubts or hesitates. Such a man is a dangerous witness in criminal courts, because his defective knowledge has a morbid positiveness that often carries conviction. In reality an inebriate witness testifying to events observed while sober is more reliable than a sober witness testifying as to events observed while intoxicated. The inebriate is literally in a state of anaesthesia, manifested by the rude grasp of the hand, a loud voice and a certain exaggeration of manner, as if to assure himself of the reality of his senses.

The sense of touch, of sight, of hearing, of smell and the muscular sense, all show disturbance, and point to a degree of paralysis, which manifests itself in illusions, hallucinations and perversions, impeded articulation, staggering gait, and diminished functional and organic activity. This is literally paralysis in a degree, and extends to the control of volition. No effort of will can remove or lessen these incapacities from alcohol. Weakness, prostration and debility respond in some measure to the calls

of volition, but paralysis from alcohol never. Hence the responsibility of the inebriate is lessened and differs from that of all other narcotic states in direction and degree.

It can be readily seen how impossible it is for the mind to receive accurate knowledge of events and persons exterior to it when the senses are obscured and imperfect ; also when this degree of paralysis extends to the higher operations of reason and co-ordination, where both the facts and the conception of them are faulty and perverted. The co-ordinating brain centers are enfeebled and cannot analyze the impressions of the senses, and this extends to those higher operations of the brain called morals. The paralysis of the lower ranges of brain activity quickly dulls and breaks up those fine distinctions of duty and the consciousness of right and wrong. It is a physiological law of growth and development that the highest elements of brain activity and power are formed last. This is called the character, the "moral" of the man, and from the use of alcohol it appears to be the first to suffer and be destroyed.

The inebriate, like the man intoxicated, exhibits confused, halting ideas and beliefs of morals, and his duties to his fellow-man. His ethereal sensibilities and conceptions of duty and obligations undergo a progressive degeneration, while the coarser organic operations of the mind and body seem but little disturbed. Hence the acts and thoughts that are supposed to be malicious and brutish indicate merely a suppression of the higher co-ordinating centers. This is seen practically in many cases where persons of refinement in thought and act, after the use of alcohol, have become coarse in language and manner ; also brutal in conduct. Often the inebriate is amazed when told what he has said and done while under the influence of alcohol, showing how far he has been dominated by the

alcoholic paralysis. But if the drinking has been continuous, he is unable to review his thoughts and acts, and both the mind and body undergo debasement that is fixed. Morally, mentally, and physically, he slowly or rapidly grows crippled and deformed. The inebriate is literally a moral paralytic, his intellect is disordered, and among the insane none are more dangerous, for the reason that he has no fixed mentality or conception of himself and his relations to others. He may before the use of alcohol have formed habits and conceptions of life that cling to him automatically, and thus be able to appear and act along the ordinary grooves of normal life. He may as a professional man or as an artisan or farmer pursue his avocation with reasonable success; but let some supreme crisis intervene, let some emergency throw him out of his automatic range of life, and his true state will be revealed. His damaged brain will be seen in the crimes and the insane confusion of all his thoughts and acts. From alcohol alone this conclusion is sustained beyond all question, viz: that its effects on the brain and nervous system are anæsthetic and paralyzant. The heart, the senses, and then the higher brain-centres slowly succumb to paralysis, while the victim's capacity to realize his true condition and adjust himself to it grows less and less. His conception of right and wrong, of duty, of obligation, and responsibility, grows more and more confused. Often this is masked by automatism, and the victim may perform his daily routine in accordance with his surroundings, but he is a mere mental waif drifting at the mercy of his surroundings and the uncertain conditions of life. The mental incapacity of inebriates to reason clearly about their acts and the consequences of them is fully sustained by the facts of heredity. All statistics agree that over eighty per cent. of all inebriates are born with defective brains and nervous system.

Their ancestors are inebriates, insane, epileptic, idiots, feeble-minded, neurotics, consumptives, and others, who are diseased, and who transmit to their children either special disease tendencies or general constitutional defects. These classes are wanting in brain, health, and vigor; they are unable to bear the strains and drains of life, or adjust themselves to its changing conditions. If they do not inherit a special tendency to alcoholic disease, they have a defective brain-soil, from which disease springs upon the slightest exposure. As shown by their defective external appearance, the brain and nervous system are imperfectly formed, dwarfed, and incapable of acting normally. The effect of alcohol on such an organism must of necessity reduce it below the plane of healthy activity and responsibility. These are general principles that are beyond question in the field of scientific inquiry.

The fact I wish to make prominent, is not the irresponsibility legally of these cases, but to show that the present legal standard of judgment is wrong and contrary to all teachings of science. The superstition that insists on full measure of accountability in all cases where spirits are used, and assumes that the use of alcohol is a voluntary act of a brain both conscious and capable of control, is a sad reflection on the intelligence of the present.

The interpretation of the law that boundary lines of responsibility, and irresponsibility can be marked out in these disputed cases of inebriety is a delusion. The effort to find a dividing line where sanity and insanity join, or where the brain could or could not have controlled its acts, or realized their nature, is an impossibility. The strange theory which seems to be fixed in the legal conceptions of inebriety, that alcohol can be used to excess at times, or continuously, and the person retain the full possession of his faculties and have the same power of control as in

health ; also, that no history of excessive use of spirits before or during the commission of the act, has any bearing on the case, unless associated with marked symptoms of insanity, are all errors that make justice impossible in these cases. To-day a large per cent. of all Medico-Legal cases, are associated with inebriety, and the use of spirits, and the legal responsibility by which they are judged are from theories urged centuries ago. The legal responsibility and accountability of these cases, is very different from that seen in courts of justice.

The teachings of modern science open up a new world of facts, that indicate clearly the physiological nature of all brain activities. Facts that show the influence of heredity, of injuries, of diseases, of strains, of drains, of failures, of diet, of surroundings, of culture, of ignorance, and all the vast ranges of influences and forces, which enter into the acts and character of each one. Facts that show a march downward, and progressive degeneration, or development and evolution. It is from this evidence that the questions of responsibility and capacity to act sanely at any time and under any circumstances can be solved. No legal responsibility in inebriety can be solved from any other point of view, or from any theories. It is a pure question of facts, not theories of the law, or rulings of judges. What is the history of the man and the act in question? Ascertain these clearly and the problem is solved, fail to do this and confusion, injustice and wrongs follow. The legal responsibility of inebriety as administered by courts to-day is a farce. A new jurisprudence is demanded, a new scientific study and recognition of these cases and their disabilities is called for. This demand is felt in every court of justice by clear, thoughtful men.

NECESSITY OF MEDICAL SUPERVISION FOR CRIMINAL ARRESTS.

BY AUSTIN ABBOTT, LL. D., DEAN OF THE N. Y. UNIVERSITY
LAW SCHOOL.

This is one of the most interesting subjects affecting the medical and legal professions just now presented by that field in which the duties of the one concur or co-operate with the duties of the other. Consider the field of these professions respectively as separate circles lying side by side. There was a time when they were wholly independent, not touching each other. The constant enlargement of the field of each profession during the last two hundred years has resulted in the overlapping of these circles so that now there is a territory which is in a sense the common domain of both. This domain is the field of medical jurisprudence in the widest sense of that term. The subjects within this field cannot be intelligently understood or efficiently dealt with by medicine alone or by law alone, they require the concurrence of these functions. This concurrence is not always harmonious; it is sometimes necessary for the law to be instructed by the medical profession, and changes in the law which the medical profession dictate must sooner or later be conceded by the legal profession, and on the other hand the law frequently needs to regulate matters whose general direction is in charge of the medical profession, and to modify to some extent in view of public interest and safety what medical science might for abstract reasons direct differently.

When we look at what the members of these professions are actually doing in society upon this common domain,

Read before the Medico-Legal Congress, held September, 1895.

Read before the Medico-Legal Society, May, 1895.

we see two principal modes of co-operation or concurrent labor or mutual modification. In the course of justice the law in investigating questions which involve scientific knowledge, calls on the medical profession for information and instruction, medical knowledge and medical reasoning; and the knowledge and reasoning which is the peculiar gift of the medical profession upon scientific subjects generally here is brought into the service of the law; and while on the one hand the law directs what inquiries may be made and in what manner and how far they shall be prosecuted, and what legal consequences shall be affixed to the conclusion which science presents, it is scientific aid and assistance which the law within these limits seeks for, and the instruction and knowledge which the medical profession give are of increasing service in the administration of justice. This is the department of forensic medicine or medical jurisprudence in the stricter sense of that term.

But we see another class or mode of co-operation between the professions in which medical men, discerning what is necessary for the welfare of the community and observing the habitual indifference of the community upon the subject, call upon the law to provide by legislation the rule of conduct and enforce it by the administration of justice. It is in this method that sanitary legislation has been so admirably developed within the present generation. This department is what we usually designate by the term state medicine. These two fields, state medicine and forensic medicine make up the area in which the domains of the two professions overlap each other. In the first,—forensic medicine,—lawyers take the initiative, the law calling the physician to the aid of its administration; in the second, physicians take the initiative and the principles of sanitation in the hands of the medical profession call the lawyers to their aid for enforcement.

When we compare the relative progress of these two great movements we are struck by an interesting contrast. The law is conservative and it pursues substantially the same method now which it has from the beginning of medical jurisprudence in its use of expert testimony. Whatever advance has been made in this field has been in a great multiplication of the classes of cases in which medical testimony is called for and great increase in the number and ability of experts, and, I believe, on the whole an increase in the respect accorded to experts who appear upon the stand to be both intelligent and impartial.

On the other hand the department of state medicine is progressive. It is not merely doing an increasing business within the same old conservative lines. It is moving forward, extending to new subjects, discerning new needs, formulating new methods of provision, or remedy, and thus giving a wholesome ascendancy over many subjects with which formerly it had no direct relation.

This notable increase of the branches of sanitary legislation will be obvious to every one upon the mere mention of quarantine and compulsory vaccination; of sewerage and drainage laws; ventilation and those parts of the building laws which have been dictated by medical opinion; and the lunacy laws; the sanction for the segregation of persons of unsound mind; and the superintendence of asylums and homes; health boards with all their various subjects of inspection and regulation; the sanitary inspection of schools; the great department of vital statistics; the growing functions of the inspectors of food products and the prevention of adulteration, and the condemnation of that which is unfit; and even the legal investigation of the disease of cattle. Others present could readily name additional topics necessary to a complete view of the extent to which the medical profession are now taking the

lead in originating and to some extent formulating the legislation of the state in matters affecting the general health.

It is difficult to estimate how much society owes to the influence of the medical profession caused by these and similar measures of compulsory sanitation.

In all such matters it is important to observe that it is the judgment of the medical profession which points the way and leads. The law waits for a reasonable consensus of medical opinion. Whenever that is reached and it is made clear to the community, the law follows with legislation attempting as far as may justly be done, to give effect in the life of the community to the principles of safety and welfare upon which medical men have agreed.

This being the case, I desire to invite your attention to the relation of the medical profession to the subject of legislation respecting inebriety. I believe the time has now arrived when the community are ready to consider with candor and acquiescence what ought to be done considering inebriety as a disease. It is true that a very large number of the community do not believe that it is a disease, and some will persistently oppose any such view to the last; nor do I know that medical men would agree that it is always a disease. The proposition which I wish to put forward is, that the community are ready to acknowledge that to some extent, at least, inebriety may be usefully considered as a disease.

It is for the medical profession to instruct the community if anything can and ought to be done by the community through its legislature, towards diminishing its prevalence. I do not affirm that the community are ready to admit that inebriety is a disease, but I believe that it may with confidence be affirmed that the community are ready to follow medical men in some important steps in which

they may be advised that it ought to be considered as a disease and treated as a disease. We should all agree that other elements beside pathology enter into the problem. If it be a disease it is engendered by self-indulgence and sometimes by ignorance; it is promoted by the profits of the traffic; it is extended by the allurements of social attractions; it is closely connected with other self-indulgences that are profitable to those who cater to them. It is not strange that it has thus far been treated by the law in the calendar of voluntary criminal offenses and not as a disease.

I do not suppose that the proposition to consider it as a disease would very soon and perhaps not ultimately terminate our treatment of it in some part as an offense but is it not time to introduce the other element as an actual basis of the law in dealing with the subject?

If I do not mistake the signs of the times, the subject of inebriety is now opening, or ready to open, as a great field for the services of medical science. Hitherto it has been treated chiefly as a private and individual question. The victim has been regarded rather as indulging in a personal vice than as suffering from an aberration and bringing physical suffering upon others. It is now seen to be a social question; and the community, as I have said, are beginning to admit that there may be some truth in the medical view which classifies it with disease.

Moral suasion has been tried and though it may have prevented much and cured some individual cases, it fails to accomplish the service which the community needs. Legal suasion or compulsion has been tried with similar inefficiency. Is it not time now that scientific suasion should be tried?

It is for medical men to say what ought to be done in reference to inebriety. It is also for them to say how much of what ought to be done, is practicable to do in the present situation.

I do not think that, in considering such measures, we should hesitate to count on the material self-interests of individuals and of the community.

I believe there are large and wholesome interests in the community which would tend to support a concerted movement such as I have suggested. In the first place it is for the interest of all taxpayers to put some reasonable regulation upon the increase of inebriety. It is not necessary to enter into figures here, but we all know that a very considerable portion of the burdens of taxation caused by crime, pauperism and insanity are attributed by medical men to inebriety as the original cause.

We know, however, that the record of institutions, founded on such admissions or acknowledgements as inmates may make in regard to the habits of themselves and their ancestors and as to other members, are not a satisfactory basis for definite conclusions in this respect.

One question which I should like to hear medical men discuss is, whether it would be practicable for competent medical examiners by personal inspection of each case to determine (with a reasonable degree of certainty in respect to any considerable proportion of cases) that inebriety was in fact a cause of the resulting condition. The statements of those who have considered this matter most fully, appear to confirm the impression that it would be practicable to show to taxpayers that a definite and considerable proportion of their burdens come from this source.

Again, in considering the subject in a practical way, we should not overlook the interest of producers and dealers in intoxicants to stop adulterations and falsifications. We must of course assume that the traffic will go on, but it is a legitimate question how far adulterations and falsifications, which probably are now practiced on a very large scale, are a cause of degeneracy and mortality which the

medical profession could greatly diminish if they were provided with suitable legislation. I am aware that there is a difference of opinion as to whether the common adulterations are detrimental to health, but I suppose there is a general agreement as to the injurious effects of intoxicants sold as patent medicines.

Again, I believe it could be shown that it is for the interests of organized labor, which is becoming so large a feature in the social question, to promote moderation in the use of intoxicants. If I am not misinformed, one difficulty with which the leaders in labor movements have to deal arises from the tendency to excess so common among wage earners as well as among others.

It would certainly be also in the interest of the medical profession if the change of the administrative law in reference to inebriety upon the basis of the public treatment of it as a disease should be devolved upon medical men. The advantages of scientific investigation thus rendered practical may readily be appreciated.

The importance of this subject appears to me greater than the mere question of inebriety. The law is now necessarily treating crime as well as inebriety almost wholly on the basis of punitive measures applied only after the evil has been done. Medical science alone can instruct the community how to deal with either by measures directed toward diminishing the sources. It would be futile in the present state of public opinion to propose measures for prophylactic treatment of crime, but is it premature to propose such measures in a practical form in respect to dealing with inebriety, and would not the demonstration of the wisdom and propriety of such measures in that regard lead the way as fast and as far as may appear desirable to similar measures?

There appears to be good foundation for the opinion

that sooner or later both crime and inebriety will be considered and tried in the light of medical science as well as of punitive justice. Now it is only a few cases, comparatively, in which the law calls in the medical profession, sooner or later the presumption and burden of proof must be shifted whenever it shall be made the duty of the medical profession to take charge of all accused and determine what, if anything, may be done for them or properly attempted considering the criminal as diseased, and turning over to the punitive authorities of the law those cases for which scientific treatment has no advice to give. Then, and not till then, will our penology be put upon its true and ultimate basis.

Do not let me be understood as advocating an extension of interference by the law in reference to the drinking habits of society. On the contrary I believe that medical opinion would guard efficiently against that. My proposition is simply this, that so far as the law does undertake or propose to interfere with questions of inebriety, the manner and the extent should be subject to medical opinion.

Let me add a few words as to the position which the legislative question as to liquor legislation now seems to occupy in the community under our statute. In a country consisting as ours does of a number of states which regulate their own internal affairs in their own way, the legislature of each state becomes a sort of experiment station legislation. Ohio tries one plan, Maine tries another, New York a third and South Carolina a fourth, and others consider and adopt plans which are modifications and adaptations of those mentioned.

The four leading plans which in one or another form seem to be the only ones necessary to consider, are

First, licensing as in this State;

Second, making the business free to all comers but imposing a tax in addition to ordinary taxation;

Third, prohibition, with or without local option as to its adoption ;

Fourth, government monopoly of the traffic.

The question now uppermost in the minds of the most intelligent and most influential men in shaping the policy of this State, I believe, suggests a consideration of these plans in the following order :

First, local option, in each town or ward and possibly in each election district as to whether the business shall be allowed there and if allowed, whether Sunday sales shall be permitted ;

Second, If and where the business is allowed, is a license to be granted to selected applicants on payment of a fee, or should a tax be levied upon all who enter the business? Which is the preferable method of making the business contribute to relieve the burdens of taxation?

Third, Is government monopoly an experiment worth trying in our present condition?

I believe it is within the power of the medical profession by considering these and kindred questions in the light which comes from regarding inebriety as a disease, and by giving the community the benefit of their views in that aspect, to introduce a new and most wholesome element into the discussion, take the subject out of the control of political interests and the depressing influence resulting from the present association of inebriety with crime, and lead the way to the dissemination of a better knowledge of the real uses of intoxicants in the community and to the formulation of such legislation as may be necessary, and practically enforceable, to protect the community against those excesses which now afflict so many lives and homes and which form so serious an obstacle to the prosperity and welfare of our people. Individual medical men may be wedded to peculiar opinions, but a consensus of medical

judgment as to what by general agreement is reasonably necessary and practicable would, I believe, and ought, I am sure, to control and direct the course of legislation in a way in which, without trenching on individual liberty, the best interests of individuals and of society at large would be promoted.

The first step in applying the principles I have suggested would be to establish within convenient access of every police precinct a correctional hospital and to provide that whenever under existing law a person is taken into custody as intoxicated or disorderly, that is to say, without any specific charge of crime other than disturbing the peace or intoxication, he should be sent, in the first instance, to the correctional hospital and there it should be determined by medical authority whether he should be turned over to the ordinary punitive justice.

MECHANICAL RESTRAINT OF THE INSANE.

BY CLARK BELL, ESQ., PRESIDENT OF THE MEDICO-LEGAL
CONGRESS.

The agitation of this subject recently in England has at last been settled by legislation, and by regulations of the Board of Lunacy Commissioners of that country.

The Lunacy Act of 1890, Section 40, made the application of Mechanical Restraint to any lunatic a misdemeanor, unless the restraint was necessary for surgical or medical treatment, or to prevent the lunatic from injuring himself and others, and made in compliance with the provisions of that Act, and under such regulations as the Board of Lunacy Commissioners should adopt as to the "Mechanical Means" to be employed.

The Lunacy Act of 1890, Section 40, was as follows:

LUNACY ACT, 1890, SECTION 40.

"(1.) Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others.

"(2.) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

"(3.) The certificate shall be signed, in the case of a lunatic in an institution for lunatics or workhouse, by the medical officer thereof, and in the case of a single patient, by his medical attendant.

"(4.) A full record of every case of restraint by mechanical means shall be kept from day to day; and a copy of the records and certificates under this section shall be sent to the Commissioners at the end of every quarter.

"(5.) In the case of a workhouse, the record to be kept under this section shall be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent shall be sent by the clerk to the guardians.

"(6.) In the application of this section 'mechanical means' shall be

Read before the Medico-Legal Congress, September 4, 1895.

Read before the Medico-Legal Society.

such instruments and appliances as the Commissioners may, by regulations to be made from time to time, determine.

“(7.) Any person who wilfully acts in contravention of this section shall be guilty of a misdemeanour.”

The following regulations were made by the Commissioners on Lunacy as to instruments and appliances for the Mechanical restraints of Lunatics, on the 17th day of April, 1895, to take effect on July 1st, 1895, and the prior regulation of April 9th, 1890, was rescinded and superceded by the later action.

The Regulation now in force as to all institutions in England and Wales, is as follows:

REGULATION.

In pursuance of Sub-section 6 of the above section of the Lunacy Act, 1890, the Commissioners in Lunacy, by this Regulation under their common seal, do hereby determine that “mechanical means of bodily restraint” shall include all instruments and appliances whereby the free movements of the body or any of the limbs of a lunatic are restrained or impeded, but that the following instruments and appliances only shall be made use of for such purpose:—

1. A jacket or dress, laced or buttoned down the back, made of strong linen, with long outside sleeves fastened to the dress only at the shoulders, and having closed ends to which tapes may be attached for tying behind the back when the arms have been folded across the chest.

2. Gloves without fingers, fastened at the wrists with buttons or locks, and made of strong linen or chamois leather, padded or otherwise.

3. If the continuous bath be employed, the use of a cover to the open bath, with an aperture therein for the patient's head, shall be deemed to be mechanical means of restraint.

4. The wet or dry pack. If, and when, either is used, the patient shall be swathed in sheet and blankets only, the outer sheet being, if necessary, sewn or pinned. No straps or ligatures of any kind shall be used, and the patient shall be released for necessary purposes at intervals not exceeding two hours.

5. Sheets or towels when tied or fastened to the sides of a bed or other object. When these are used only for the purpose of forcible feeding, and merely held by attendants, and not tied or fastened, their use shall not be considered to come under the head of mechanical restraint.

It is essential to the safe employment of any of these forms of restraint, except No. 2, that the patient be visited frequently by a medical officer, that he be kept under continuous special supervision by an attendant, and that under no circumstances he be left unattended; and is hereby so ordered.

The Commisssioners direct that at each visit of Commissioners or a Commissioner to an asylum, hospital, or licensed house, or to a single patient, all instruments and mechanical appliances which may have been employed in the application of bodily restraint to a lunatic since the last preceding visit, be produced to the Visiting Commissioners or Commissioner by the superintendent, resident medical officer, or resident licensee, or the person having charge of the single patient.

It will be seen that the section requires that in every case where mechanical restraint is applied, a medical certificate describing the mechanical means used, and stating the grounds upon which the certificate is founded, be signed in asylums and hospitals by the medical superintendent, in licensed houses by the resident or visiting medical practitioner, in workhouses by the medical officer, and, in the case of single patients, by the medical attendant; that a full record of every case of restraint be kept from day to day; and that a copy of such records and certificates be sent to the Commissioners in Lunacy at the end of every quarter.

In framing this Regulation, in which they have defined the "mechanical means" which may alone be used in the imposition of restraint, the Commissioners in Lunacy have merely discharged the duty cast upon them by the enactment quoted above; and they desire to guard themselves most strictly against the supposition that they have thereby given any greater countenance to the employment of this form of treatment than they have hitherto shown.

While recognizing, as the enactment recognizes, the possible occurrence of cases in which its employment may be necessary and consistent with humanity, they remain of opinion that the application of mechanical restraint should always be restricted within the narrowest possible limits, that it should not be long continued without intermission, and that it should be dispensed with immediately that it has effected the purpose for which it was employed.

This Regulation shall come into operation on the 1st day of July, 1895, on and from which day the Regulation of the 9th April, 1890, shall cease to have effect, and a copy shall be inserted at the beginning of every register of mechanical restraint.

Sealed by order of the Board,

G. HAROLD URMSON,

19 Whitehall Place, London, S. W.,

Secretary.

the 17 day of April, 1895.

It will be observed that the instruments are specially named and carefully described:

1. Linen jacket.
2. Gloves without fingers.
3. The continuous bath.
4. The wet or dry pack.
5. Sheets or towels with specified uses.

The Commissioners disclaim giving any greater countenance to the employment of this form of treatment than they had hitherto shown, and while they acquiesce in the

Act as recognizing the possible occurrence of cases in which its employment may be necessary and consistent with humanity, they assert that "they remain of opinion that the application of mechanical restraint should always be restricted within the narrowest possible limits, that it should not be long continued without intermission, and that it should be dispensed with immediately that it has affected the purpose for which it was employed."

This settlement of the agitation in England by legal action and regulation of a vexed question, makes concessions to those superintendents, who lack the ability to manage the insane without it, which are intended to prevent the abuse of the use of mechanical restraint by those who deem its use necessary.

It is a step backward and not forward. Without these regulations, or even under them, Dr. William Orange would never have occasion to use them in the control or management of the insane, and a large number of British superintendents of asylums who deem them both unnecessary and unwise.

If a surgical operation was to be performed on a man, sane or insane, the surgeon operating would of course place and secure the part for the operation, but he should not discriminate between the patient, sane or insane.

It is doubtful if serious abuses could arise in British asylums under the new regulations, but the Commissioners can not, by their disclaimer, escape the responsibility, while their action justifies the use of certain forms of mechanical restraint in the discretion of one medical superintendent, which one of the large and cultured experience of Dr. Wm. Orange in Great Britain, Dr. Magnan in France, the late lamented Bryce, or Dr. Alice Bennett in America, would not consider necessary or even proper.

There are superintendents who could not see their way to

manage an insane patient without restraint, and there are superintendents who, without the slightest difficulty, would successfully manage the same patient most successfully without it. There is a vast difference in the morale and the character of patients in different countries.

While recognizing the value of regulations as to restraint in preventing grave abuses, I should deprecate the adoption of such a regulation in American asylums as has just gone into effect in England. Those who dispense with mechanical restraint as unnecessary in the care and management of the insane, among asylum superintendents, do not need such regulations. It is impossible to overlook the legal permission such regulations give, to resort to it by unskillful and illy fitted men, who may deem it necessary in good faith on their part, under conditions, where competent officers would not permit it, or think of its use.

It is a question of *savoir faire* of the superintendent. If the law restricted its use to actual surgical operations it would not be censurable, but "necessary for medical treatment," is too broad language.

No case of abuse of restraint has arisen that an incompetent superintendent might not in good faith have deemed necessary.

There is a difference in the morale and material of the inmates of a British asylum and an American one, so that we must observe each to distinguish. It would be a step backward in American asylum treatment to permit the use of mechanical restraint, against a very general public feeling that its disuse would, on the whole, be a greater good to the whole body of the insane than its use restricted under regulations, which would put it in the power of uneducated and incompetent superintendents to restrain in the ordinary daily management of the insane in institutions for their care and treatment.

For example, the legislation and regulations would, if adopted, legalize the use of the prolonged bath as a means of mechanical restraint in scores of American asylums, where the use of such a thing is never resorted to at all. Is this progress? Is it wise legislation? The British Board of Lunacy Commissioners seem not to have the courage of their convictions.

JURIES AND RAILROAD CORPORATIONS.

BY JUDGE WILLIAM H. FRANCIS, OF MONTANA, VICE-CHAIRMAN
SECTION MEDICO-LEGAL SURGERY.

That there is something radically wrong in the application and results of the jury system is, when we consider many of the verdicts rendered, undeniable.

There is, in the mind of many, a feeling of prejudice with respect to corporations which is one phase or element in the struggle between capital and labor that constitutes a serious menace to our republican form of government, retards genuine progress, unsettles public faith, undermines material growth and stability, keeps inactive financial resources, cripples the wage-earner, and weakens, or renders impossible, that assurance of abiding security which must be possessed by a truly prosperous and happy nation.

And this feeling of prejudice is strikingly evidenced in the verdicts of juries against corporations, more especially railroad corporations.

The original sovereign—the individual—having in some degree relinquished his sovereignty for the establishment of the safeguards and benefits of “Society,” it finally transpired that the very thing thus established grew into a centralized oppression, also embodied in a individual exercising a sovereignty which became tyranny, and as one defense against the encroachments of this tyranny, the right to trial by jury was demanded and obtained.

The petit jury system had its origin in a sense of common justice, intended to protect the individual in his rights

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and to which he was also amenable for his wrong acts, and which was to be adjusted by his "peers" sitting as the "jury."

Notwithstanding the inroads of selfishness, social and political influences and the other causes or forces attendant upon the moving world in pursuit of wealth, power and supremacy, that sense of justice is still frequently recognized in the verdicts of juries in cases between individuals, but in cases between an individual and a railroad corporation its recognition is so rare as to be a conspicuous exception, although such cases are so numerous that one publication ("American and English Railroad Cases") has reached more than sixty volumes.

Many railroad cases terminate in favor of the Railroad Company, either in the trial court, or (which the more often occurs) on appeal to the appellate court, or court of last resort, on some decisive point of law; but even when the plaintiff has a wrong or very doubtful case, it is not uncommon for his attorney to remark to the attorney for the defendant: "Just let me get the case to the jury and I will 'beat you,'" or "If the judge does not take the case from the jury I 'will win.'"

It would seem that juries, when considering a railroad case, weigh the evidence on scales different from those esteemed as standard in other cases.

This is notably manifest in the trial of actions brought against railroad corporations to recover damages for injuries to the person, commonly denominated "Personal Injury Cases."

In these cases the attorney for the Railroad Company uses all his legal ingenuity in the effort to successfully move the court to take the case from the jury, or direct the verdict; on the other hand plaintiff's attorney exerts all his legal acumen to bring out something that will "take

the case to the jury," knowing that if the jury only gets hold of one thread it will succeed in firmly grasping the whole rope.

The plaintiff and his witnesses usually have a willing audience of twelve; but all the witnesses for the railroad company, the more so those in its employ, are regarded by the jury very much in the light of co-defendants whose statements are biased and generally unworthy of belief.

The evidence that would be convincing to a jury, when offered in behalf of a private person, is looked upon with suspicion or ignored when presented in the interest of a railroad company.

Mathematical propositions and conclusions usually accepted without controversy are regarded with mistrust, and the plainest deductions or declarations of science are discarded for the superior knowledge or pre-conceived notions of the layman.

Particularly is this true when the testimony relates to the nature and extent of the personal injuries alleged to have been sustained by the plaintiff.

The jury will receive with great confidence the testimony given by plaintiff and physicians on his side, and turn a deaf or incredulous ear to that given by the company physician or surgeon, or by some other medical man, in favor of the railroad company; and so the best expert testimony from the mouth and brain of the skilled railway surgeon, ripe in practice and experience, is often regarded by the jury as of less weight than the testimony of the plaintiff concerning his own injuries and symptoms, or that of some physician of limited knowledge and experience, who speaks more from theory than practice.

Although science may sometimes suffer and be distorted, misapplied or misrepresented or disfigured, by the ignorant or the unworthy, the condition we have briefly noted can-

not justly be attributed to science herself, for her demonstrations and deductions, when intelligently detected and comprehended and conscientiously expounded, contain none of the base metal of prejudice, but are the very essence of unbiased truth.

Neither can it, certainly not in the greater number of cases, be ascribed to ignorance or venality on the part of witnesses who testify for the railroad corporation.

This can be emphasized with respect to railway surgeons, many of whom are among the brightest, most experienced, skillful and (let me add with pleasure) most honorable practitioners in the great profession that, with its medicines and cunningly contrived instruments, used with knowledge, is the faithful and oft-victorious ally of life in its ever recurring conflict with disease and death.

The prescribed limits of this paper will not permit a proper discussion of the causes producing this clearly-existing condition, or aiding its development. We can, however, briefly note a few.

The prevalence of this prejudice against corporations, engaged in railroad and other enterprises, and the tendency of jurors to voice it in their verdicts is, perhaps, not so much to be wondered at when we reflect that the public press, that universal and potent educator, moulder and leader of the opinions of the masses, so often incites and fans into a formidable flame the elements of opposition and suspicion which so many, not familiar with the formation and prosecution of large enterprises, entertain against the aggregation of capital and the control and operation of concentrated resources of any kind.

The writer was roundly abused and vilified in the press for ruling in a certain case in favor of a railroad company, defendant, which ruling was demanded by the evidence and by justice and the law of the land, and had the same

ruling been made in favor of an individual litigant, under precisely like circumstances, the same press would doubtless have heralded it as the ruling of "a Daniel come to judgment."

Politicians, below the grade of statesmen, in party platforms, on the hustings and in legislative halls, including Congress, pander to this prejudice against corporations, and against the money power in general, and are content to secure office by the votes of the ignorant and misguided, forgetful or regardless of the well-being of the commonwealth, national or local, the basis and protection of which, under a republican form of government, must ever be found in the casting of an intelligent ballot by loyal citizens, neither demagogues nor slaves of any corporation.

Even the courts themselves are not entirely free from the charge of assisting in keeping alive, and making more prevalent, this prejudice concerning corporations.

Some judges, more frequently those elected or appointed for a stated term and not for life, have not the nerve to withstand this prejudice, or escape its inoculation, and sometimes, unwittingly it may be, do injustice by leaning too far in one direction for the very fear that they might be accused of favoring corporations, against the weal of the dear people, instead of following the logical and legal trend of the case even though a corporation, and that a railroad corporation, should be benefitted thereby.

Nor are corporations and labor organizations blameless concerning the conditions we have considered.

Both enter the field of politics and are arrayed against each other under the cloak of contending political factions or parties, or wrestle for supremacy within the lines of the same party; both take a hand in the election of legislators, the formation of legislatures, the election or appointment of judges and the making of the laws they are to expound.

While this state of things exists, the prejudice against corporations will continue to be manifested; the struggle between capital and labor will not cease; strikes, "Coxey Army" movements, and the like, will occur; and the greater prosperity our country might enjoy will remain a hope unrealized.

THE DUTY AND RESPONSIBILITY OF THE ATTENDING PHYSICIAN IN CASES OF RAILWAY SURGERY.

FROM A LAWYER'S STANDPOINT.

BY ABRAM H. DAILEY, VICE-PRESIDENT MEDICO-LEGAL CON-
GRESS, EX-PRESIDENT MEDICO-LEGAL SOCIETY.

The attending physician in cases of railway surgery frequently occupies a position of considerable embarrassment. He may suppose himself to be responsible only to his employer, but finds himself in fact and law to be frequently responsible also to his patient. He is in the service and pay of the railroad company, and certainly owes an important duty to his employer. He is supposed to have qualified himself for his duties, and as a medical man, he is expected to possess a reasonable degree of knowledge and to be sufficiently skillful to enable him to discharge his duty to both employer and patient. If he is not possessed of that knowledge and skill, the law properly holds him responsible for injuries resulting from the lack of these qualifications. The law not only properly exacts these qualifications, but demands that being capable, he shall faithfully make use of his knowledge and skill for his patient's benefit. Does the fact that he is employed by a railroad company lessen his responsibility to his patients? The law says that he who gratuitously renders service to another, is only responsible for ordinary care; but he who undertakes to render to his employer service in a particular

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profession or trade in which he holds himself out as an expert, expecting compensation, is justly held to a degree of care corresponding to the responsibility of his undertaking. When the physician is in the employ of a railroad company, he is liable to both his employer and the patient he is called upon to treat, for the lack of a reasonable degree of skill and knowledge. The nature and extent of these responsibilities deserves some little consideration. It would be obviously unfair to assume that only mercenary motives actuate companies in the employment of surgeons to attend their injured employees. Certainly the dictates of common humanity to some extent, enter into the undertaking, and self protection does the rest. If the surgeon employed fails in his duty and renders his employer liable to his injured servant, I know of no reason why his employer cannot hold him personally responsible to the extent of his actual damage occasioned by the failure of duty by the surgeon, if the amount of damage can be clearly determined. He will certainly be held liable to his patient in a direct action for malpractice, but the company's right of action will not accrue until it is itself made responsible and the right of action of the company against its surgeon will be held in abeyance until its damage is ascertained. The right of action of the injured against the company, is predicated upon a failure of duty on the part of the company towards its servant occasioning the injury, and usually the mistakes and errors of an attending physician do not lessen the degree of the company's responsibility, where it is responsible for the injury in the first instance. But a different state of affairs exists as between the company and its surgeon, and if a case can be clearly established, showing to what extent the company has been mulcted by reason of his inefficiency or lack of knowledge, I cannot see any reason why the surgeon may not be held

liable to the company. The law imposes no obligation upon a company to furnish its employees with a physician, but having undertaken to do so, and having assumed the treatment, charge and care of an injured employee, the physician should be held to such patient for the exercise of the same skill and attention as would be expected of him if he was in the direct employment of the patient. The very nature of the employment, the employees relations to the company, the exigencies arising, and position the surgeon assumes, all unite in determining, that he be held directly liable in case of malpractice, to the injured patient, irrespective of his direct employment by him.

Another matter of considerable importance, and one which has occasioned a great deal of comment, particularly between gentlemen of the two professions, is the action and conduct of the surgeon beyond the scope of his professional employment. Has or has not a physician the right to enter into the service of the railroad company, not only to attend upon its injured employees in his capacity as a surgeon, but also to exact from him all possible facts with reference to the accident, procure and make note of the statements of the injured persons, and then become active in the settlement of the employee's right of action? That this has frequently been done is unquestionably true; and his acts are sought to be justified on the ground that it is much better for the patient to have a proper settlement of his case, and avoid the expense and uncertainties of going into court to get relief. However, physicians may differ in their views upon this matter, so long as they indulge in this, cases will arise where their conduct will be subject to severe criticism, not only from the Bar, but from the Bench. What a person may legally do is one thing, and what he should do may be quite another. Unquestionably a physician may and often has saved thousands of dollars to his

employer by advising, urging, and in some instances almost coercing a settlement of cases. I see no objection to his informing himself of the history of the case as far as he can do so, nor with his furnishing the facts to his employer, but when he undertakes to make use of his professional character and imposed attendance upon the unfortunate patient to bring about adjustments and settlements he degrades the profession to which he belongs. There may possibly be exceptional cases, but they are exceedingly rare.

Early in my professional career, a poor man came to me with a case for his wife against a railroad corporation, for injuries sustained by a fracture of the neck of the thigh-bone occasioned by being carelessly pushed from a moving car by the conductor. Her attending physician procured a settlement from the company, in consideration of its paying his bill, which I found to be some \$400. Her injuries were permanent. She was a cripple for life; the broken bone never uniting. In another case a client was injured while trimming a line of electric lights by being thrown from a pole to the ground, by the passing of the current through his body in consequence of defective insulation. Upon the trial of his case I was met with a general release, which he had signed under the influence of a physician in the pay of the electric company, who visited him in the hospital and whom he said had induced him to believe that his injuries were not of a permanent character. He will never recover from his injuries; he will always be lame. The consideration for the release was an insignificant sum. The jury to whom the court submitted the question, of the validity of the release, rejected it as being fraudulently procured, and awarded the plaintiff a substantial sum for his injuries.

In another case a lady was injured by being thrown

down while assisting her little girl to alight from a trolley car by the sudden movement of the car. I was called into the case a couple of days after the accident, and found that her attending physician and the physician for the company, were co-operating to induce a settlement of the case for \$200. The lady was exceedingly conscientious and had great faith in her physician, who had assured her that her injuries were of a trifling character. She was severely bruised on her hip, thigh and back, and with considerable urging, I induced her to wait a few weeks to be certain that the result would justify the predictions of the two physicians. Instead of recovering, the lady found her condition to grow worse until her sufferings were extremely great and she has never recovered from her injury. Had she acted under the advice of the physicians for a paltry \$200, she would have deprived herself of any further recovery. She obtained a judgment for \$5,700. A settlement of this case for \$200 would have been a clear gain of \$5,500 to the company. Were these physicians justified in attempting to induce any such premature action upon the part of the plaintiff? Do not the very laws of decency dictate that an injured party shall be allowed a reasonable time to ascertain the extent and nature of his injuries, before he shall be induced by any one to sign a document which may deprive him of a most valuable right? If this be so upon what ground can a physician justify his act in inducing an unfortunate person in his charge, confiding in his ability and integrity, to sign away his right of action in the interest of his employer, who may be held responsible? In such a case the attending physician may incur liability to a direct action by the person so deceived, to his own prejudice, for any damage which he can show he sustained thereby. His acts are not only subject to the severest criticism in a court of justice, in determining the

validity of documents he may have induced to be signed but he himself, being a party to so great a wrong, subjects himself to the prosecution of a civil action for damage. He is in the same position as would be any other person, who was a party in consummating a fraud of any other character. In venturing his opinion as to the nature and extent of the injuries of the patient under his charge, he will be held to the exercise of a high degree of skill and knowledge as well as integrity by the courts. What physician has not been impressed by the great confidence the sick and injured, as well as their relatives and friends, place in his ability and integrity. Every expression of the physician's face is carefully scrutinized to catch an indication as to what he considers the actual situation of the sufferer. He occupies a place that is as sacred as is possible for one human being to occupy towards another. There is nothing valued so highly as life, and next to life itself is the means of its enjoyment. If by misfortune we are bereft of the means with which nature has endowed us for obtaining the essentials of our existence, through the fault of another, by the common consent of civilized people, the one at fault should be held responsible for the injury he causes. Year by year the medical profession is advancing in importance in its relation to individuals and communities. None are so foolish as to suppose that the physician can perform miracles, and yet through his skill and knowledge he is constantly doing that which borders upon the miraculous. What I have said has not the slightest reference to the great majority of medical practitioners, nor to railway surgeons, whose humanity and love of fairness would induce them to scorn any of the acts which I have criticized.

There is still another matter which has been the subject of much discussion and comment, not only among medical men, but among members of the bar, and that refers to the

medical expert in railway cases. It is an every-day scene in our courts to find medical men sharpening their wits and framing their answers to parry or weaken the force of medical testimony brought into cases from opposite sides. Is it, or is it not a fact that in many instances the medical witness considers himself as much retained in the case as the lawyer, and that it is his duty, in as far as possible, to favor the side that called him? Lawyers are very apt to seek the testimony of only those witnesses which will favor their own side of the case. They could not be expected to call adverse witnesses. In the trial of a case an attorney expects his adversary will be prepared to present the best side of his own case, and find out the weak points of his opponent's; but an attorney is no more justified in introducing an element of untruthfulness in his case to benefit his client, than has a witness to perjure himself upon the stand; and any attorney who is guilty of making use of untruthful evidence knowingly, in a court of justice, should not only be disbarred from further practice, but subject to a criminal prosecution. Witnesses are sworn to state the truth, the whole truth, and nothing but the truth, and as a matter of fact, how may keep their oaths when upon the witness stand? People are very apt to think when by skillful answers or sometimes by pretended forgetfulness they have kept back a portion of the truth, that they have not violated their oaths, but such is not the case. As distinguished between partisan testimony of medical men, that of the medical man who gives his evidence in court openly, freely and frankly, commands the admiration of the Bench, of the Bar, and the confidence of the jury. Let the consequences be what they may, if the parties do not want his testimony they need not call for it, but if they do, giving it frankly and freely, will make him in demand of those persons who wish to obtain an honest administration

of justice. Not long since the Legislature of the State passed an Act providing that where the examination of an injured party before trial is desired, the court shall appoint a disinterested medical expert to make the examination and testify in the case. The necessity of such legislation of itself, sustains what I have said regarding medical testimony. It is a salutary law, but we find in practice that lawyers are constantly seeking to evade resorting to it, by soliciting an opportunity to have a physician named by themselves or their client, make the examination, in the presence of some physician to be named by the opposing party, and if such a consent is refused, to parade the fact in court, that they have not had an opportunity to examine the patient. This is not without its effect upon the jury, notwithstanding the fact that the court is reminded of the law by which a disinterested medical expert could have been called into the case, and have testified as to what he found to be the facts. This, but instances the existence of a desire to gain some advantage through the testimony of their own medical experts in damage cases.

The remarks which I have made are applicable in many respects, not only to cases of railway surgery, but to all cases where medical testimony is required. I have spoken plainly, as I believe it to be a duty to do, that my position upon these matters shall be unmistakable. The calendars of our courts are overflowing with damage cases, so much so that jurors and judges at times indicate a prejudice against them. That damage cases are in many instances unnecessarily brought is quite true, but I believe that exceedingly few are wantonly commenced. Attorneys are oft times deceived and mistaken as to the facts, and only discover it upon the trial.

But remembering what tremendous changes have taken place, and evidently will continue to occur in mechanical

devices, and what men, women and children are required to do in order to obtain the means of living, while laboring around heavy pieces of, and rapidly moving machinery, or riding with great velocity upon railroads and steamboats, we may naturally expect an increase rather than a decrease of accidents. A person who has lost an arm, a finger, or been disfigured, or otherwise injured, without his own fault, but through the negligence of another, is entitled to relief at the hands of the wrong-doer, and that man is not a good citizen who would deprive him of his legal rights.

THE DUTIES OF THE RAILWAY SURGEON TO HIS COMPANY.

BY F. H. PECK, M. D., SURGEON N.Y.O. & W. RAILWAY, UTICA, N. Y.
VICE-PRESIDENT AMERICAN ACADEMY OF
RAILWAY SURGEONS.

The duties of the railway surgeon can be classified into the purely medical and surgical, and the medico-legal.

It is hardly necessary, or within the intent of this paper to recite in detail the medical and surgical duties which the railway surgeon owes to the corporation employing him; suffice it to say that as medical examiner he should prevent the employment of those who through physical defect or disability would be dangerous or inefficient railway employees; his medical training renders him especially qualified to aid his company by suggestions as to car sanitation; and more important than all, he is the officer responsible for the scientific care of those injured on his division of the road. It is evident that the interests of the company and the public are identical in their requirements on him in this sphere of his duty, and unite in demanding that he shall render as faithful, conscientious, and pains-taking service to sufferers by railway accident as he would to the private patients of his daily practice.

I take it that railways employ a regular staff of surgeons with a two-fold object in view.

First, that in case of accident the company's employees and the travelling public may be assured of receiving the prompt and skillful attendance of an experienced and re-

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sponsible surgeon; second, that the interests of the company may be protected not only by the fact that it has provided the best of care for the injured on its line, but also by having, in every case of accident, a competent witness to the extent of injury and the circumstances connected therewith. Granting the above, it is the logical sequence that when a surgeon signs a contract with a railway he takes upon himself obligations both surgical and medico-legal, and pledges his willing assistance in eliciting the truth and estimating the amount of disability concerning all cases of injury coming under his care as the result of railway accident. Many argue that the railway surgeon's duty ends with the cessation of his attendance on the wounded, and much mawkish sentimentality has been wasted in recent conventions of railway surgeons by those, who through assumption of a false professional pride claim that in case of suit or threatened suit for damages against his company the surgeon should stand aloof and withhold the advice which his professional training enables only a physician to give.

The popular fad is a demagogic reviling of railways as soulless corporations, oppressors of the public, and like stereotyped expressions of denunciation; men accounted honest in ordinary business transactions do not hesitate to cheat a railway; the certain sequence of railway accidents is the institution of suits by malingerers for the phantasm railway spine; the question with juries seems to be not whether a railway is justly liable, but how large a verdict they can impose against it; and it has become necessary for the railway to protect itself against this species of blackmail by the employment of honest and able surgeons whose evidence shall be a bulwark against these false claims for damages.

It is the purpose of this paper to briefly outline the

writer's humble opinion as to the medico-legal duties of the railway surgeon, with the services which he not only may give without derogation to his professional dignity, but which as a loyal employee of his company and as a justice-loving citizen he is in duty bound to give.

When called upon to attend those injured in railway accidents it is the surgeon's duty to obtain and record a history of the causes of the accident creating the injury, with any statement volunteered by the patient as to his own negligence or carelessness contributing thereto, together with a description of the traumatism and the anatomical structures involved. This not because he is the tool of the claim agent, but simply in the interests of truth and justice and because he is, from the nature of his association with the case, the one best enabled to become possessed of the facts. We have all known threatened suits withdrawn when the claimant was confronted with his own statement made to the surgeon immediately after the accident.

I believe it is the surgeon's duty to furnish to the proper officer of the road, with the history outlined above, details of the progress of the case, and such prognosis as the facts may warrant as to ultimate recovery, or in the case of maiming, an estimate of the amount of disability which the patient is liable to suffer as a result of the traumatism.

It is his duty, when called upon to do so by his company, to make a careful and systematic examination, in cases of alleged illness or loss of function resulting from accident. His inquiry should be sufficiently searching to convince himself of the truth of real and the falsity of simulated symptoms, and enable him to eliminate conditions due to prior illness or injury.

He should be ready to testify as to matters of fact, or to give expert evidence, always subject to the restrictions placed by the law upon privileged communications;

though I think it is poor policy for a railway to depend solely upon its own surgeons for expert testimony as their connection with the road is sure to be used to bring discredit upon their evidence with the jury.

I believe that actuated simply by the desire to do his full duty, the railway surgeon may do all that I have sketched above without becoming a partisan in any issue between his company and individuals and without doing the least violence to the traditions of our honorable profession.

IMPORTANT FEATURES IN PROSPECTIVE LITIGATION CASES.

FROM A SURGEON'S STANDPOINT.

BY R. S. HARNDEN, M. D., EX-PRESIDENT N. Y. STATE ASSOCIATION OF RAILWAY SURGEONS, VICE-SURGEON SECTION OF MEDICO-LEGAL SURGERY.

It is not my intention to assume the role of a claim agent, but simply to point out some features, which should be considered in an advisory sense, both by railway attorneys, and railway surgeons; while I have always contended, that, the surgeon should in no case assume the functions of a claim agent, it does not necessarily follow, that railway surgeons are to remain uninformed, and ignorant of the best methods of attainment of actual, or approximate, amount of damages, moreover it becomes an actual necessity, when the surgeon is employed as an expert witness, that he should understand fully this field of medico-legal surgery. The Court and the railway attorney look to him for advice and council, and demand of him, such enlightenment, that justice may obtain. Some features, to which I shall allude, are not, and naturally can not, be fully grasped by the non-medical or untrained medical mind. After reading an exhaustive paper before the American Academy of Railway Surgeons in Chicago, which was purely advisory to claim agents and railway surgeons, and was extensively discussed, and mainly with approval, I was severely criticised by a few most excellent friends and competent surgeons, because, they erroneously

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inferred, that I was advising railway surgeons to become claim agents. Now gentlemen while we are not to treat this subject from the standpoint of the latter, we must bear in mind the legal aspects, which in all cases, may become prospective. Prospective claims for damages, on account of the hypnotic element—always present—render the effort to determine actual amount, or approximate amount of damages, satisfactory to claimant, even upon a basis of pure justice and equity, extremely difficult, and to this peculiar psychic element we shall mainly confine our thoughts, the scope of this brief paper will not admit of any elaboration of the subject.

Sympathy for the injured, and popular sentiment against wealthy corporations, evolves suggestion, and prospective damages, excites auto-suggestion; the latter, often stimulating the imagination, and in the course of time, if the case be not attended with early settlement, aggravating the actual objective condition, and, causing subjective and psychic disturbances, realistic to the mind of the traumatized patient, often serious in themselves, and sometimes fatal. This element and the resultant conditions, exemplify the importance, to the claim agent, as well as the surgeon, of early settlement. I have often heard the expression, by attending physicians, that they could not cure their patient, on account of expectancy, or prospective claim for damages. Moreover, delay in settlement, is attended in most cases, with increased and increasing liability, on account of the development of neuroses, and other conditions the result largely, of suggestion and auto-suggestion. These results are often considered by the courts, as proximate sequences of the original injury. Without enlightenment from the educated and trained medical expert, upon these features, the courts are often led into error, where such sequences are the result of this psychic ele-

ment. Our contention is, that the medical expert, should also understand fully, the legal test of the proximate cause of damages and responsibility therefor, this test we find from "Sackett's instruction to juries, page 274"—and we should constantly bear it in mind—"was the injury of such character as might reasonably have been foreseen or expected as a natural result of the act complained of."

Now while these psychic neuroses are usually foreseen and expected, they are not, or should not, be contemplated either by the court or medical expert, as a natural sequence of a traumatism.

The liability of the corporation having been already determined or admitted by the claim agent, we then come to the question of reasonable or approximate extent of physical damages, we must now take into account many circumstances, and with the attainment of exact and impartial justice constantly in mind, first consider, so that, we may impart to the court, the extent to which it should be considered as consequential, so much of this element, as constitutes mental distress, and anxiety over prospective deformity, and consequent impairment of earning capacity, blasted hopes of future success, in a career, which seemed promising, etc. The courts have already considered as proximate, but this, we must carefully eliminate from the hypnotic, imaginative, or psychic, element, resulting from auto suggestion, and suggestions from sympathizing friends and briefless attorneys. It also becomes our duty to decide upon the proximate extent of permanent injury and the effect upon expectancy of life.

In our examinations we should bear in mind, and I would emphasize the importance of avoiding, suggestive questions, as many minds are so constituted that they are misled thereby, I have often noted the fact, that even medical experts are terribly befogged, by leading, and often,



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improper questions; the court evidently leaving the medical witness to protect himself, and we are supposed to be able to do so. Are we? A full and just appreciation of the earnest effort of our friend, Clark Bell, to interest our profession in medico-legal study would, I believe, result in great benefit to us all. In considering the psychic element in litigation cases we should bear in mind that human nature would not be what it is, if expectant pecuniosity did not in some measure hypnotize the claimant. There are many cases on record where psychic neuroses have developed into serious mental trouble, resulting in large amounts being awarded for damages, and complete recovery taking place soon after. Oppenheim, the highest authority we can quote, says: "This psychic anxiety grows into a real pathological entity in many cases." If this be true of the German, then we should certainly find it more frequently among our blended nationality in this country. Charcot says, "Traumatic suggestion" often takes the place of oral suggestion.

Sir James Paget says, "Hosts of cases establish the fact that patients cannot make the necessary effort to resume work so long as the settlement of their pecuniary claim is unaffected."

Apropos of this element, and perhaps disproving fraudulent intent, is the statement of Broudel and Pouchet, "that they discovered in cases hypnotized into convulsions, the convulsive ptomaine." Probably these ptomains are the results of psychic shock. Seguin says, "It has been known for several years, that in perfectly healthy persons serious nervous symptoms may be produced by suggestion." Many cases of supposed maligning are, no doubt, types of hypnotic or psychic neuroses. We should take this into account in our examinations. It is my opinion that cases of glaring fraud are not common, but a very large element

of unconscious and unintentional fraud nevertheless exists. In our practice as physicians we are often misled by our neurotic patients, where no other element exists than one of morbid desire for sympathy. Being often called upon by corporations and insurance companies to decide as to a patient's convalescence from sickness or injury, we will find, again, the psychic element confronting us, and so long as there is in view prospective damages or insurance, we find it exceedingly difficult to persuade the patients that they can safely resume work. We must here take into account the fact that when a patient has been prostrated from illness or injury, and convalescence has taken place, they must make some voluntary effort to regain their former activity; their muscular and nervous system need exercise to restore them to normal conditions.

THE PREVENTION OF INSANITY.

BY CLARENCE A. LIGHTNER, ESQ., OF DETROIT, MICH., SECRETARY MEDICO-LEGAL CONGRESS, LECTURER ON MEDICAL JURISPRUDENCE, DETROIT COLLEGE OF MEDICINE.

I came unexpectedly to New York to attend the meetings of the Congress and have been entirely unprepared to add to the discussion of the subjects which have been under consideration during the past three days. My immediate interest in Medical-Legal matters is due to my position as Lecturer on Medical Jurisprudence in the Detroit College of Medicine. Since assuming my duties as Lecturer, I have been more and more impressed with the great importance, and the still greater difficulty, of the questions arising out of the general subject of Medical Jurisprudence. It has been, therefore, with a view of extending my inadequate knowledge of this subject that I have attended, as a hearer only, the meetings of the Congress which has just terminated.

Although a call to answer, especially unexpectedly, an after dinner toast is to me generally most ungratifying, still, I am rather pleased than otherwise to have been called upon by Mr. Bell on this occasion, because it affords me an opportunity of expressing to the members of the Congress an idea which has been more and more present in my mind as the sessions of the Congress progressed. Sometimes a suggestion from one who, not having been actively engaged in the prosecution of any work, comes first into

Address at the banquet held at the New York Press Club, by the Medico-Legal Congress, on the evening of September 6, 1895.

touch with its details, is of some value as being, as it were, the reflection of the views of an unbiased and disinterested person. It is with this view that I, with much deference give expression to the thought that has been uppermost in my mind.

It has seemed to me that the work of the Medical-Legal Congress, (notwithstanding its eminent, and I may say, to me, unexpected degree of success,) has not been clearly balanced. I mean, merely, that no adequate attention has been given to the subjects connected with the *prevention* of these conditions from which arise the number of legal questions which have been here so thoroughly discussed.

To illustrate my idea, I would cite the general subject of insanity. I need not dwell upon the progress which has been made, especially within the past few years, in the protection and care of the insane; but it does seem to me that no adequate attention has hitherto been given to the means of preventing the constantly increasing addition to the numbers of insane persons. The physician's especial duty seems to be to cure, if possible, or, at least, to alleviate the condition of these helpless creatures and the lawyer's province is, principally, to protect the rights of the insane in their persons and property. But, neither profession seems to be called upon to take active and systematic measures that might result in the cure, not of individual cases, but of the causes which contribute to insanity.

It seems, at the present date, to be generally admitted that insanity as well as other abnormal physical, mental or moral conditions, is in a large measure inherited. Recently in conversation with a friend who had given especial attention to the subject of the destruction of insects that are injurious to vegetation, I was impressed with the fact that the cultivation of diseases among such pests was becoming the surest and readiest means of destroying them.

Among other things, I understood from him that numbers of these insects might be inoculated with consumption and, being let loose among their fellows, soon led to the extermination of the insects. Notwithstanding, however, the extent to which have been carried our researches as to the effect of heredity and contagion among the lower animals, practically no attention has been given to the question of preventing these effects in the human species. If there is any one question which appeals, in my judgment, to the Medico-Legal profession, with peculiar force, it is this one; both because it is a matter in which no other profession has as yet shown an especial interest and, also, because the matter is, if we are to consider, at all, the interest of future generations, of the very first importance. It has, therefore, been a subject of some regret to me that the subject has not been brought forcibly before the Medico-Legal Congress whose sessions have just expired. In only one paper, if I recollect correctly, has the subject been alluded to.

One might suggest, off-hand, two general means of counteracting this evil, one by education and the other by legislation. It would seem, however, that education must be inadequate as a means of preventing the marrying of persons who, from their mental or physical condition, should not in the interest of mankind in general be allowed to marry. The difficulties of enacting adequate legislation must be apparent to anyone. I wish, however, in closing, to mention an Act that has been passed during the last session of the Legislature of Connecticut. This statute, if I am correctly informed, makes it a criminal offense for insane or epileptic persons to marry and also for any person to perform the marriage ceremony between such persons. I have not been able to secure a copy of this statute but the general scope of the Act, I have learned from various sources. In my judgment, the effect of this statute

should be watched with especial interest by the Medico-Legal profession with a view of correcting, if possible, any weakness in the statute and, if the Act in its present or in an amended form shall be found to accomplish, even in a small degree, the object at which it is directed, to secure the enactment of similar measures in our various states. Whether this statute of the State of Connecticut is correct in principle or whether it will prove to be effective in practice, I am in serious doubt, but I am satisfied that it is a step in the right direction and that Medical Jurists should follow up the same with all the power at their command.

SUGGESTION AS AN IDEO-DYNAMIC FORCE.*

BY W. XAVIER SUDDUTH, M. A., M. D., F. R. M. S.,
CHICAGO, ILLS.

Among the many curative agents that have been brought forward during the last few years, none is attracting wider attention at the present time than is the subject before us.

Technically speaking, suggestion is the active principle of all psycho-therapeutic measures. Its discovery was the result of years of labor in the laboratories of the biologist and experimental psychologist. In the fullest sense it is the legitimate child of science and not an outcast as some would try to make out. With such parentage it behooves us, therefore, to look into its claims and study well the phenomena of its manifestations.

Like many other curative agents, discovery of suggestion came about through close observation of pathological conditions. Just as the study of bacteriology in its relation to pathology resulted in the formulation of the germ theory of disease and the subsequent discovery of antiseptics and serum therapy, so has the study of morbid psychology established the value of suggestive therapeutics in the treatment of functional derangements.

The late Daniel Hack Tuke was the Virchow of psycho-

*Abstract of Fellowship Thesis presented before the Chicago Academy of Medicine, December 15, 1895.

Read before the Medico-Legal Society, December, 1895.

logical medicine, and his works stand to-day as classical monuments to his memory. His labors, extending over a full quarter of a century, have thrown a flood of light upon the influence of the mind on the body in the production of disease. He was a pioneer in the field of morbid psychology and while he was preceded by great lights, yet his light showed clear to the end.

Unzer, as early as 1771, wrote, "Expectation of the action of a remedy often causes us to experience its operation beforehand," and the immortal John Hunter, whose breadth of intellect enabled him to grasp many scientific truths generations ahead of his time, lectured to his classes in 1786-7 on the subjects of "Attention and Expectation."

Johannes Müller, in 1838, gave added light to our understanding of the nature of the influence of mental states over bodily functions. He held as a general fact "that any state of the body, which is conceived to be approaching and which is expected with an unfailing confidence, will be very prone to ensue, as the mere result of an idea, if it do not lie beyond the bounds of possibility."

Braid, according to Dr. Tuke, in 1841 threw a flood of light on the influence of the mind upon the body by his investigations into mesmerism which he rechristened hypnotism.

In the compiling of his book, "Influence of the Mind Upon the Body," Dr. Tuke drew upon an extended personal experience and from over one hundred authorities upon the subject. I should be vain indeed to hope to add to the scope of his labors in that direction, but such is not my intent; in this paper my sole purpose is to offer a possible explanation of the line of action in the operation of suggestion in the treatment of disease.

The only rational manner of approaching the subject is

from the side of psycho-physics, which let us proceed to do.

Impulses arise as the result of central nervous activity that is generally sub-conscious in character although back of this unconscious cerebration there may lie a sensorial experience. All function, conscious and unconscious, alike has its inception in the sensorium. Our personality, physiognomy and bodily form as a whole is but the visible expression of this subtle, all-pervading, central force. Tendency and desire constitute the main spring of all function and exert an irresistible influence upon form as well. "As a man thinketh in his heart, so is he," is as literally true of the physical as it is of the moral nature. By tendency is meant the hereditary influences, both physical and mental, which undoubtedly have their direct influence upon volition. In the main the will may be classed as an inhibited force and as such it serves an excellent purpose in nature by regulating desire which might otherwise run away with the organism were it not thus restrained and as these forces are all intimately associated in the manifestation of suggestion as a therapeutic agent we will briefly consider them.

Volition is the outward expression of desire coupled with a belief in the attainability of the object desired. Motion and emotion are distinctly separate experiences, yet we find them closely related in life, in fact the only way that emotions can rise into the realm of the conscious is through the objective or physical organism for they are undoubtedly subjective characteristics. The intimate inter-relationship of the subjective and objective parts of man's nature forms a most intricate study over which much contention has arisen.

Ladd, with whom our investigations lead us to agree, says, "The dualistic theory is the popular and only justifi-

able metaphysics for the investigator who wishes to confine himself as closely as possible to the scientific study of either mental phenomena or the phenomena of the physical sciences. It is the only intelligible and defensible conclusion of a critical metaphysics as applied to the study of the real relations of body and mind." "The ordinary objections to the dualistic view of the real relations of body and mind have references to certain differences in conceptions of the nature and application of the principle of causation." "On this point the opponents of dualism are wont to criticize its adherents for their view of the interaction of these two alleged substances." In explanation he says, "The word *interaction* may be used appropriately enough to describe under one term all relations in reality between the body and mind, if only clear and consistent conceptions, as to the meaning of the word be formed and maintained."

The more radical school of evolutionary psychologists, perhaps best represented by James, of Harvard, holds to the theory of a "mind dust" and says, "That if evolution is to work smoothly, consciousness in some shape must have been present at the very origin of things." While I am willing to admit the reasonableness of the latter part of the proposition I do not see any reason for claiming a "nebular" origin for mind or intelligence upon such a premise. It would seem more rational to hold to the theory of superiority and pre-existence of intelligence, which in this instance would represent mind and claim that it finds expression in nature, body, as an essential part of it; moulding, modifying and using it to suit its own purpose and when finally done with it casting it aside as a worn out garment.

Individual intelligence is a matter of growth based upon personal experiences rising out of special environment.

This intelligence is not a *de novo* product of highly endowed matter because even the lowest forms of life present some degree of intelligence but in its higher manifestations it is the outgrowth of these two forces working conjointly for the upbuilding of a more perfect organism. The first principle therefore to be laid down as offering a working hypothesis as to the probable channel through or by which suggested ideas may be made to assume definite form in action or activity of bodily function is to be found in the reciprocal interdependence of body and mind. We learn, as children, of our ability to perform certain acts by finding ourselves involuntarily performing them. Indifferently it may be at first but the action once born, we go on voluntarily, improving upon our first efforts until a certain degree of perfection is finally acquired. Some one has said that confidence, or faith is born of the knowledge of having once successfully performed an act.

Beginning as an empirical practice, even as more material medicine did, in many instances, suggestion is rapidly reaching a scientific basis in Europe and to some extent in this country. It has been my good fortune to have had the opportunity to look into the special methods of its advocates abroad to a considerable extent and I have become fully convinced of its efficacy in the treatment of certain pathological conditions. It is true that up to the present these have been largely in the nature of neuroses but with the rapid advance in our knowledge of the nature of function through researches in physiological chemistry and experimental psychology I look forward to a much wider field of usefulness for this natural remedy for perverted function. Let me therefore for a few moments call your attention to the probable line of its application.

As we have before seen all function has its inception in

the sensorium, and any derangement in this centre, either functional or organic, is liable to find expression in disordered functional activity. Diseased mental states, however, are much more common than we are wont to think because they do not show as such directly but are often times reflected in different parts of the system. The emotions, fear, grief, anger and hate have long been known as having a marked effect upon the human barometer and should receive careful consideration at the hands of the general practitioner. Fear is especially most subtle and lasting in its influence. Many cases may be cited where fatal results have been produced through fright and on the other hand joy is also said to kill at times. The quickest way to effect cures in bodily ailments arising from emotional causes is to go directly to the seat of the disease, the mind, and disabuse it of its hallucination by appealing to the understanding rather than to the organs, which only reflect the central disease. It is generally well to treat urgent symptoms from the standpoint of general therapeutics because most patients have been brought up with the material idea of the potency of drugs, consequently the strongest suggestion that can be made under such circumstances is the administration of some medicament with the action of which he is more or less familiar, the idea being to create the quickest and firmest mental impression possible. But every physical suggestion, even if it is only in the nature of a placebo, should be accompanied by verbal suggestions. Many a case has been relieved by similar lines of treatment and a permanent cure established by continued suggestion directed toward the restoration of healthy function.

There is hardly a diseased functional condition which the human body is prone that may not be directly benefitted, if not permanently cured, by the aid of suggestive therapeutics; not only this but many organic lesions are im-

proved, indirectly, by controlling the vascular supply and inhibiting destructive metabolism until vital processes may be restored.

Pain may thus be inhibited, a fever lowered and hysteria controlled. Nervous dyspepsia is often permanently cured in this way. Neurapathic affections, including insomnia and paralysis, have been cured. The various forms of nervous prostration are specially amenable to treatment by suggestion. Organic diseases of the nervous system are improved indirectly by relieving the reflex symptoms and thus doing away with the strain upon the organism as a whole. Stammering, in cases where there are no physical lesions, which are seldom found, readily succumbs to suggestion. The extended field of reflex neuroses are benefited by suggestion and nearly all the disagreeable symptoms of rheumatic affections relieved. Alcoholic and narcotic inebriety, tobacco and other vicious bodily habits are successfully treated in most all cases. Perversions of the sexual instinct are most happily treated by suggestion. Melancholia and paranoia in general form a fruitful field for its application.

Suggestion may be administered in the waking state but the happiest manner of presenting it is in the hypnotic state, because in that state there exists the special form of passivity—which is most conducive to the highest receptivity of suggestion. After a patient has been hypnotized several times this method is dispensed with and suggestions made in the waking state.

By reason of the fact that the subjective mind is incapable of inductive reasoning, it is necessary that the successive steps to be pursued in the treatment of any given case should be specifically outlined at the beginning of each sitting in order that the best results may be attained.

This rule is equally applicable to suggestive treatment in the waking state as such methods are based on pure psychological grounds and tend to secure the greatest degree of confidence in the line of treatment adopted and best operates to secure the establishment of ideo-motor and ideo-dynamic impulses in the restoration of healthy function.

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WHAT SHALL WE DO WITH ALCOHOLIC INEBRIATES AND OTHERS APPARENTLY INSANE?

BY NORMAN KERR, M. D., F. L. S.

Vice-President International Congress of Medical Jurisprudence; Consulting Physician Dalrymple Home for the Treatment of Inebriety; President Society for the (British) Study of Inebriety; Chairman British Medical Association Inebriates' Legislation Committee; Vice-President Medico-Legal Congress of
1895.

PAUPER CASES.

The present English procedure with alleged "lunatics" or persons of unsound mind, a large proportion of whom are intemperates, though greatly improved by the Lunacy Acts of 1890 and 1891, is still far from satisfactory. Some few years ago considerable and harassing experience, when certifying as to the alleged insanity of individuals stated to have been of unsound mind, nearly a third having been alcoholic inebriates, concerning whom proceedings had been taken with a view to their transfer to an asylum, first forced upon me the conclusion that a temporary detention in a special institution, for a limited period, without the sufferer being declared insane, would be a practical and happy solution of a difficult and intricate problem. Alleged lunatics sent into the workhouse on a summary reception order by a relieving officer, constable, or overseer, can claim discharge on the expiry of three clear days, unless the justice declare the *detinue* to be a lunatic, idiot, or person of unsound mind. In these cases the justice cannot legally make an order to detain the patient,

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thus received into a workhouse, one day longer except on declaring the individual to be insane.

Under Section 21 a justice, where immediate care and control are required, may make an order for an alleged lunatic to be received in a workhouse (this proceeding is rarely applicable, as it is generally impracticable to secure a justice at the moment when such an urgency occurs); but even this order is in force for only fourteen days, after which time the person cannot be further detained unless the judicial authority declares him insane.

Case after case occurred, the procedure before a justice having usually been at the instance of a relative or of the police, in which, though the alleged lunatic (alcoholic or non-alcoholic) had been violent or suicidal, or otherwise uncontrollable, while at home or in the streets, admission into the workhouse insane wards had an almost immediate beneficial effect. In some cases, by the expiration of the third day, the insane symptoms had subsided (partly from the change of environment having removed the causes provocative of mental disturbance and excitement inseparable from the former surroundings, partly from the withdrawal of the anaesthetic, partly from the influence of control, discipline, compulsory nonrishment, and medical care). In such favorable circumstances, the total disappearance of the abnormal mental symptoms, even in cases which were known to be the subject of alcoholic brain disease, left only one course open, viz : to decline to certify that the individual was of unsound mind. In these cases no other procedure was possible under existing law, and the persons reported on were therefore discharged. In other cases, though the symptoms of mental disorder had partially subsided and were subsiding, giving hope of the complete restoration of reason in a week or two, it was legally impossible to detain the mentally afflicted without the

justice declaring him or her insane, and then in suspending the order for reception in an asylum, for any period not exceeding fourteen days. Sometimes during that interval patients recover and are discharged; sometimes they do not so speedily recover, and, after all, have to be sent on to an asylum.

NON-PAUPER CASES.

In non-pauper cases there is at present, except the work-house, practically no place other than an asylum where the presumably insane (here I speak of such unruly or dangerously violent or suicidal cases, as cannot be restrained at home) can be looked after (whether sent in on an urgency order or by petition).

QUICK RECOVERY FREQUENT.

Yet, in both pauper and non-pauper cases, the after-history discloses the fact that a substantial proportion of the persons apparently insane, from alcohol or otherwise, recover sanity and mental control within a period of from a few days, till from six to ten weeks or thereabouts.

PROBATIONARY CURATIVE DETENTION.

Since I first suggested an alternative temporary procedure, the thought has often recurred to me: Why should temporarily mentally unsound inebriates or others have to be declared insane, or (in urgency private cases) sent to an asylum for a time? Is it not practicable, with due regard to the public safety, to the recovery of the mentally diseased themselves, and to the safeguarding of personal liberty, to subject them to compulsory curative treatment for a limited time without certification, or a judicial declaration of insanity, or residence in a lunatic asylum.

I have little fault to find with their treatment in asylums. On the contrary, I have seen too many such cases permanently cured, and know too much of the consideration and conscientious regard for the well-being of the in-

mates, to have few words, except of commendation, for asylums and their medical officers. Yet, in view of the widespread prejudice which prevails against the reliability of persons who have been discharged, even though discharged as "cured," from an asylum, an ungrounded prejudice, often more inveterate than against criminals who have served their time in a prison, and operating seriously among the poor against that resumption of occupation in life which is so essential to sanity and bodily health (an evil considerably alleviated by the excellent work of the "After-Care Association") I cannot but feel that it would be an enormous advantage if some probationary resident treatment could be provided and enforced, prior to certification of lunacy.

CLIMACTERIC MENTAL UNSOUNDNESS.

A large proportion of insane cases consist of the functionally unsound of mind, concerning which group there has, since the recent evidence of my friend, Dr. Savage, in a well-known trial (Commissioners of Lunacy vs. Sherrard) that climacteric insanity is not certifiable, been great difference of opinion. Whether ultimately settled to be or not to be certifiable, I have seen many climacteric cases which would probably have proved fatal by suicide, or murder, or accident, which have been cured by residence and treatment in an asylum. In wealthy families, where I have been able to rely on an adequate staff of skilled nurses and attendants for weeks or months, in various functional mental crises, especially of insanity of the menopause, the result has been entirely satisfactory. But for constant watchfulness and efficient nursing, disaster, to say the least, must have occurred. The erewhile patients are now thoroughly restored in mind, filling as intelligently and effectively, as ever before, their domestic, social and other duties.

ARE THE CLIMACTERICS, IF POOR, TO BE LEFT TO THE
MERCY OF FATE?

If these ladies had been poor, where would there have been a chance of life, let alone recovery, for them, if they had not been under the guardianship, control and care of the asylum? Are women, because they are destitute, or possessed of too limited means to procure the necessary watching, quiet, freedom from the excitations of domestic worries and environment, either at home or as "voluntary boarders" in an asylum, to be left to die by their own hand, to kill their helpless offspring (as in puerperal mania), or to come to an untimely end from disease or accident unwittingly induced or encountered in the heedlessness and unconsciousness of their mental aberration? The interests of this last unprotected array of the mentally disordered, if these can no longer be certified as eligible for admission into an asylum, demand some provision at the public charge for that special scientific treatment which has proved so successful in the past, and is proving so increasingly satisfactory by the advances in Medico-Psychological knowledge.

Owing to there being at present no tentative temporary detention (other than indicated above) without certification of unsoundness of mind, persons not presenting insane symptoms pronounced enough to warrant the medical man entrusted with the examination of the alleged lunatic in testifying to insanity, some cases are exposed to great risk, with, at times, the issue of a tragedy. In a private case suicide occurred within ten days, and in a pauper case within fifteen days of the examination.

SHORT PROBATIONARY DETENTION DESIRABLE.

From these and other considerations a probationary residence, say of from six weeks to two months in duration in a special institution, which might be called a probationary

hospital for the treatment of mental disease, with bright, pleasant, enlivening surroundings, would be invaluable, a proposal which I was glad to observe publicly approved of by Brigade Surgeon and Lieut. Col. Kringle (Proceedings Society for the Study of Inebriety, May, 1874,) and Dr. Batty Tuke.

ESPECIALLY IN CASES COMPLICATED WITH INEBRIETY.

In reputed insane cases complicated with inebriety such a procedure would be specially advantageous, as such a term of observation, with treatment, would afford time for the resolution of the immediate inebriate phenomena. The cases to which I have referred are not such as would be eligible for treatment in a Home for Inebriates, and would not knowingly be received into any institution of the kind with which I am acquainted. After the subsidence of the insane symptoms in a Probationary Mental Hospital, if there be power to deal compulsorily with inebriates, it may in certain cases be desirable to transfer the erewhile insane but now sane inebriate to a Home for the Treatment of Inebriety. A provision of the character indicated would in the past have prevented much expensive litigation, would have relieved medical practitioners of grave responsibility and heavy pecuniary risk (the cost and anxiety involved in even a successful defense being exceedingly serious), and would have restored to complete mind-health without the disabilities of certified insanity, not a few of the most industrious members of the community, no small number of the hardest brain-workers in the land.

THE DUTY AND RESPONSIBILITY OF THE ATTENDING PHYSICIAN IN CASES OF RAILWAY SURGERY.

BY CLARK BELL, ESQ., PRESIDENT OF THE MEDICO-LEGAL
CONGRESS.

In a paper read before the Section upon Medico-Legal Surgery, of the Medico-Legal Society, one year ago, upon the "*True Field of Duty of the Railway Surgeon*" I defined the Legal position of the Railway Surgeon, especially where he acted as the attending physician of the party injured, and gave my views as to the safe rules he should adopt as governing his professional conduct. They may be thus summarized:

1. Under no circumstances should the Railway Surgeon who has attended the patient, act directly or indirectly as an adjuster of claims in the case.

2. Under no circumstances should the attending Surgeon act as the Attorney of the Railway or other Company, in the matter of the adjustment or settlement of a claim, nor in relation to influencing the patient to settle his claim.

3. As he has been the attending Physician and Surgeon of the injured man, he can in honor take no step against him, or that would injuriously affect his rights. His relation as a Surgeon of the Railway Company, although it may have been well understood by the patient, places the Surgeon under no obligation to the Railway Company to act in the slightest degree with injustice towards the patient.

4. His duties may be defined generally as follows:

- a. To fairly and truthfully advise the patient of the nature, character and extent of his injuries, if requested so to do.

- b. To so advise the Railway Officials, Counsel, and Adjuster, though perhaps an exception should be made, in the interest of the patient as to facts and knowledge obtained from the patient confidentially, or in treating the case, which would prejudice the patient's rights and interests. In such a case, were I the private counsel of the Railway Surgeon, I should advise him that, as to such facts or knowledge, his lips should be

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sealed as closely as would be those of a family physician, were he in charge of the case for the patient.

c. The entire responsibility of the compromise, adjustment, or defense in the courts of a claim for damages should be left by the Railway Surgeon with the Attorney of the Company and the Adjuster of claims.

d. The Railway Surgeon should take no part in it, pro or con, beyond a fair, honorable, conscientious statement of the facts of the case and the nature, character, and extent of the injury to the proper Railway Officials.

e. Duty as a witness.

In cases where the controversy results in a litigation, his evidence should be that of simply describing the actual facts of the case, the treatment, and to a description of the nature, character, and extent of the injury, holding the scale of his judgment as evenly balanced between the patient and the company as it is in his power to do.

In that paper I embodied the carefully prepared views of leading Railway Surgeons upon this subject, (*Vide Medico-Legal Journal*, Vol. XII, p. 374 et. seq.) from which I make brief extracts because time prevents quoting at length.

Surgeon General Nicholas Senn, Vice-Chairman of the Section of Medico-Legal Surgery:

("There has been too much attention paid by Surgeons to the settlement of claims against railroads. The proper function of the Railway Surgeon is to attend to sick and injured as he would to private patients and leave all legal matters to the proper authorities.")

Chief Surgeon C. K. COLE, G. N. Ry., Ex-President American Academy of Railway Surgeons, and Vice-Chairman Section Medico-Legal Surgery:

"The consensus of opinion among both Railway Surgeons and Medical Men generally, as well as the legal fraternity, is that there is too great a tendency for the Railway Surgeon to feel, when litigation on account of damages occurs, that he must be actively partisan in behalf of his company." * * * "To give clear medical testimony without prejudice or partiality, is unquestionably the chief function of the Railway Surgeon in his relation to the courts; and when he departs from this rule, and shows that his statements are biased, or it is shown that his actions, and especially his treatment of the case prior to the trial, have been those of a partisan, he at once lessens his influence with all concerned, including the court, and loses CASTE with the patient, the railway, and, most important, with himself."

Chief Surgeon S. S. THORNE, Vice-Chairman Section Medico-Legal Surgery, Ex-President National Association of Railway Surgeons:

"The duties of Railway Surgeons, if well performed, should be satisfactory, if held within strict limits. No going outside."

Chief Surgeon W. B. OUTTEN, N. P. Ry. System, Vice-Chairman Section Medico-Legal Surgery, Ex-President National Association Railway Surgeons:

"The true line of duty of the Railway Surgeon is essentially the same as that of any honest man." * * * "When he essays the function of claim agent or attorney he ceases to be a surgeon, and essays a function which the nature of his business and training unfits him for." * * * "The Railway Surgeon should never permit his prejudice to thwart his judgment; partisanship in his position soon leads to not only loss of respect on the part of his employer, but of all with whom he may be brought in contact." * * * "The Railway Surgeon's duty is at times four-fold,—his duty to himself, his duty to his patient, his duty to his employer, and his duty to the community. If he is true to the first two duties, the two last will never suffer." * * * "The true line of the Railway Surgeon, then, must consist in honest, effective knowledge of his function, along with the true, exact, and strict performance of the same."

Chief Surgeon JOHN E. OWENS, Chic. & N. W. Ry. Co., President American Academy of Railway Surgeons:

"Your communication of the 12th ulto., referring to a short paper on 'The true line of duty of the Railway Surgeon,' received. I am fully in accord with your view of the proper relation of the Surgeon or Medical Man, to the cases of railway injuries which he may be called upon to treat. I have never considered it in any sense my duty to go beyond that of Surgeon or Medical Man." "I have never entered the field of the adjuster of claims, and feel sure that his duties and those of Surgeon and the Medical Man, are incompatible with each other; nor have I ever encouraged our local or district Surgeons to assume the duties of adjuster, or in any such manner meddle with the case."

Chief Surgeon B. F. EADS, T. & P. Ry. Co., Ex-Comm. Section of Medico-Legal Surgery:

"The Surgeon's duty is to act solely as a professional man, i. e., doing the best that can be done for sick or injured employees, and see that railway companies are not swindled or defrauded by unjust claims brought by employees or passengers. He should in no wise debase his profession by lending himself as a claim settler in the interest of the railway companies."

Chief Surgeon J. R. STUART, H. & T. Ry., Houston Texas:

"Briefly I am opposed to the Railway Surgeon effecting settlements, of any nature whatsoever with the injured employees of lines under his direction." * * * ("Experience teaches me that expert testimony by

Railway Surgeons in the courts of this State, goes for nothing, and is not treated with any consideration by the juries.")

Surgeon R. HARVEY REED, M. D., Ex-Treasurer National Association Railway Surgeons, and Editor of its Journal:

"The Railway Surgeon should confine his duty, as far as possible, to the care of the sick and wounded." * * * "As a witness he should neither be for the defense nor the prosecution, but should be a scientific witness to bear testimony on the scientific facts presented in the case. Whilst there may be circumstances in which a Surgeon might to advantage act as a claim agent in settling claims between an injured party and the company, yet, I think, as a rule the attorneys should attend to this business, and the Surgeon should attend to that which comes directly within the pale of his professional career."

Prof. E. R. LEWIS, M. D., Treasurer National Association Railway Surgeons:

"I feel certain that I coincide with you, upon the relation of the medical department to the claim department, and believe the two departments to be as distinct as it is possible for two departments of any corporation to be. I certainly do not believe it is at all practicable or feasible for the medical department to come in any way in contact with the claim department, in so far as the dickering for settlement of the injured is concerned, and I do not believe any claim department will respect the company's medical employees who will consent to dicker with patients for them."

Chief Surgeon C. A. SMITH, Cotton Belt Route:

"Surgeons connected with the medical departments of our railways, owing to the very nature of the case, must, of necessity, become very intimately connected with the law department; but, in my opinion, should never be under its direction, or be made a part of it, but always be maintained as a separate and distinct department." * * * "I do not think that Railway Surgeons should act as claim agents for their companies." * * * "No undue influence should be attempted in obtaining statements relative to how the accident happened, always remembering that it is 'the truth, the whole truth and nothing but the truth' that is wanted, also remembering that nothing can bolster up a lie or truth half told; state facts in your reports. In testifying before courts of justice, always stick to the exact facts in the case, neither turning to the right or left, no matter what the consequences may be to the corporation."

Surgeon R. S. HARNDEN, Late President Erie Ry. Surgeons, President N. Y. State Association Railway Surgeons, Vice-Chairman Section Medico-Legal Surgery:

"The Railway Surgeon should not under any circumstances, become the claim agent, or assume the functions of the attorney in the case. He must not discuss the question of claims, from a monetary standpoint, so far as it applies to the actual settlement. He should be only an advisor

to his company, manager, or even the claim agent, from a medical standpoint."

Surgeon GEORGE CHAFFE, M. D., Late President N. Y. Association Railway Surgeons, Treasurer Section Medico-Legal Surgery of Medico-Legal Society :

"Many Railway Surgeons do not know, or if they do know, they seem to forget that they are only employed to do Surgical and Medico-Legal work. When the question of compensation arises the position is indeed delicate, and the man who is able to use common sense, or tact and good judgment, and do little talking, will serve his company well. When a Railway Surgeon assumes the role of attorney or adjuster of claims, his services should be dispensed with."

I quite agree with Judge Abram H. Dailey in his valuable contribution to this subject, as to the legal responsibility assumed by the attending surgeon, who takes charge of the case of one injured in a railway accident.

The fact that the surgeon may be the official surgeon of the Railway Company on which the injury occurs, does not change either the duty or the responsibility of the attending surgeon.

It may be safe for the surgeon to say, that as his act is voluntary, and he of his own act assumes the relation of attending physician to the injured one, he accepts all the duties, obligations and responsibilities of that position.

His first duty is to the injured, his treatment and restoration. The surgeon's duty and relation to the company is therefore secondary to the relation of physician and patient. Secrets obtained in the discharge of his professional duty are as sacred as if he was not the surgeon of the company. The high moral obligations of secrecy and silence on all questions prejudicial to the injured, should be sacred, and must be so regarded by every high minded surgeon.—(*N. Y. Code Civil Pros.* § 834.)

The attending surgeon, therefore, has no right to take any step, withhold or give any information derived in his professional conduct of the case, or confidentially disclosed

to him by his patient, while under his charge and treatment, the effect of which would be disastrous or injurious to his patient, and I concur fully with the views of my colleague, Judge Abram H. Dailey, in the view he expresses on this point. In the case cited by this learned jurist of the fraudulent release obtained by the attending physician, the physician was guilty of a crime, he deserved punishment.

In my judgment and experience, such cases as are cited by Judge Dailey, are fortunately rare.

Railway corporations are, as I believe, as a rule disposed to make fair and honorable settlements, notwithstanding the constant and increasing evil of false, fraudulent and exaggerated claims, so constantly arising, by the connivance of scoundrels in the legal and their rascally confederates in the medical profession.

Disreputable lawyers, as is well known, unblushingly make a deliberate business of bringing claims against railway corporations. Well known instances occur in this city, of scavengers of the profession who have amassed fortunes by dividing with claimants the sums they get from the railway corporations.

They employ agents and assistants to watch any accident on the elevated railway especially, and at once solicit the case, under an agreement to divide what they can get, whether they know the injured or not.

In some cases they don't wait to make arrangements with the injured, but commence the action without retainer, on an unverified pleading, so as to prevent the sufferer from employing other counsel, and in one case reported to me by the attorney of the injured, one refused to withdraw his unauthorised suit, until he was threatened with proceedings to disbar him.

Legal cormorants of this class have greatly demoralized

railway corporations. Statements of false and fraudulent claims by so-called medical men, exaggerating and magnifying the injuries, constantly confront the corporations, and thwart its better intentions.

Frequently they are not permitted to look at or meet a case upon its merits, and they are often forced to yield to these robbers, clothed in the robes of an honorable profession, rather than run the risk of a trial with perjured and doctored medical testimony; for medical testimony and aid, I regret to say, can be obtained and is used by this class of attorneys everywhere, and often with great effect.

Medical advisers of railway corporations, in this class of cases, have to fight fire with fire when thus confronted.

The Railway Surgeon, for example, knows that the case is fraudulent.

He knows that it is in charge of a disreputable attorney, who usually has a lien on the claim of which he has given the company notice. He knows, or has good reason to fear, that the medical witness has a contingent interest in the recovery.

He has acted, perhaps, as the attending physician of the injured party, so that he is professionally tied by the obligation a physician owes to his patient, not to divulge his secrets, nor to do anything to his injury.

I know of no more trying position than that of a railway surgeon in such a case. Has he the right to expose the fraud?

How can he give the real facts to the corporation, without violating the professional obligation he is under to the patient?

As to the question raised by Judge Dailey regarding the Railway Surgeon as an expert, in my opinion it answers itself.

I quite agree with Chief Surgeon Stuart, of Houston, Texas.

No railway company should ever think of calling its surgeons as expert witnesses, especially the attending surgeon. He can refuse to go, and if he does, juries give no heed to his testimony.

Medical expert testimony has fallen to a very low state in our courts, even in ordinary cases. It is at once assumed by juries that the railway surgeon is the paid employee of the corporation, as much as the counsel, and it must be a man of commanding position, and of the highest integrity, whose opinion in such a case would impress the jury.

Railway counsel should, I think, as a rule never call or use it, if possible to avoid it, and only in clear cases of fraud as to facts, as any other witness within its knowledge, and not as an expert, or as to his opinion on the case.

No objection could be raised to having the court name a disinterested witness to examine and testify as an expert, under the statute cited by the learned Judge. But the safer rule for both the railway surgeon and his corporation is to keep him off the stand as an expert witness, especially if he has the slightest connection with settling or adjusting the claim for the amount of the damages. There is no exception within my knowledge or experience of where courts and juries have failed to heavily mulct a corporation detected in such a transaction, as the records in the courts clearly show. My previous paper refers to decisions in cases of this kind.

THE LEGAL TEST OF INSANITY.

BY R. S. GUERNSEY, OF THE NEW YORK BAR.

The subject is one so vast and varied that a short letter about it will be of little general use, although to members of the Medico-Legal Society, who have so frequently and thoroughly thought and studied about it, little need be said in addition to the discussions which have already taken place and appear in the proceedings of the Society.

The great difficulty of satisfactorily ascertaining whether a person is insane or not is to ascertain the *standard* by which his motives and actions are to be measured by the opinions of an expert or a court or jury. Any physician may be called as an expert for or against the sanity of a subject or person in question. But whatever testimony is before the court and jury, the expert and the court and jury must have in their minds some standard of sanity by which the actions and motives are to be compared before their judgment is formed about the subject. All reasons must be made by comparisons, however true, erroneous or absurd the latter may be.

What is or should be the rational standard is the important question.

In the paper by the writer read before the Medico-Legal Society eighteen years ago, at request of Mr. Clark Bell, which is published in Vol. 2, of the Society papers, the writer stated the standard by which insanity must be measured by expert, court and jury as follows:

"The standard must be the average man, and hence

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what we call 'common sense—that is, a due regard to the usual institutions and habits of mankind.

“The general principles on which all decisions of this question must be based are: That when any feeling, passion, emotion, or even a special aptitude becomes absolutely ungovernable, so as to make its subject regardless of his own interests or of the well being of his friends—when, as it were, it absorbs the whole being so as to blind the reason and conscience, and urges on to a manner of life and to special deeds that are repugnant to the average institutions of mankind—then we have reason to suspect the existence of insanity.”

After long observation and close consideration, the writer will now say most emphatically that he regards the above standard as the only true and safe one, and the natural standard.

Great embarrassment and confusion arises in the attempt to separate and distinguish mere *opinions* from actual evidence by which to apply this standard of sanity.

A matter of belief, however absurd and foolish it may appear, if it is founded on the statements and alleged experiences of others, is no evidence of insanity if it does not lead the subject to absurd actions, although it may be evidence of weakness and folly. It is a matter of credulity. But a matter of belief or opinions founded upon absurd personal experiences which are not common to the experience of mankind, is evidence of insanity.

This is the natural measure of sanity, although its use may be involuntary, in the minds of all who are called upon to judge of the acts and motives of an individual. Its general use proves it to be the correct and natural rule, and it must and will be resorted to by all who are called upon to judge who are insane.



PORTRAITS OF EMINENT ALIENISTS AND MEDICAL MEN.

GERSHOM H. HILL, M. D.,
Independence, Iowa.

THEO. DILLER, M. D.,
Pittsburg, Pa.

WM. F. SPRATLING, M. D.,
Morris Plains, N. J.

H. O. JEWETT, M. D.,
Cortland, N. Y.

G. R. TROWBRIDGE, M. D.,
Danville, Pa.

W. H. HAVILAND, M. D.,
Butte, Montana.

MIDDLETON MICHAEL,
Charleston, S. C.

J. T. STEEVES, M. D.,
St. Johns, N. B.

S. V. CLEVINGER, M. D.,
Chicago, Ill.

F. T. FULLER, M. D.,
Raleigh, N. C.

O. W. ARCHIBALD,
Jamestown, Dakota.

R. J. DUNGLISON, M. D.,
Philadelphia, Pa.

SEXUAL PERVERSION.

BY WILLIAM LEE HOWARD, M. D., BALTIMORE, MD.

To draw an incised line between true sexual perversion and vulgar vice is no easy task. The subject has been so fully dealt with by such able men as Kraft—Ebing, Schrenck—Notzing, Lombroso, Moll, Ellis and others equally qualified to put the matter on a scientific basis, that I shall only attempt to give an account of some cases that have come under my observation; realizing that only from future study of this subject from more extensive facts can we instruct our law-makers so that this unfortunate class of sexual perverts can be dealt with in a more humane manner than at present. That crimes, murders especially, are committed through the insane jealousy of homo-sexuals and young women who practice Lesbian love and mutual manusturpation is now well known. I shall confine my short paper to one subject; the histories of a few sexual perverts, not encroaching on the broader field of inversion. Any one who will take the trouble to read E. Lamairesse's translation of the *Kama Soutra, will find the most complete and exhaustive account of sexual perversion at the time Soutra wrote. One can scarcely believe in the present degeneration after reading this work.

The following case came under my observation a short time ago. W. N., 40 years of age. By profession a musician. A man of great musical talent, and one who had held several high positions as an organist. He had lost position after position, as he could not be depended upon.

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*La Kama Soutra. De Vatsyayana, Paris. George Carre, Editor.

If he had been engaged to play for some fashionable wedding, or an important church function, he would often not make his appearance. Especially was this so if he had great responsibility and had been working hard on the preparations. Drink was the cause always assigned to account for his erratic conduct, and for the past ten years his life has been spent in taking some of the so-called cures for the liquor habit, and filling engagements when his misguided friends thought that his return from each different "cure" had made a reliable man of him. During his normal condition he was a polished gentleman in every respect; courteous and brilliant. He would spend weeks rehearsing for an organ recital up to the hour of the performance, when suddenly a great change in his whole individuality would take place. His face would be pale, his muscles twitch and he had the appearance of one afflicted with paralysis agitans, and his walk was a quick, jerky gait. He seemed to have lost his identity; to be a second personality, devoid of any knowledge of his engagements or responsibility. He would resort to the lowest dives and drink the vilest concoctions. The amount he consumed was small. However, when he was discovered, his whole appearance, attitude and the odor of liquor upon him caused his church friends to pronounce him drunk. As a last resort he was sent to me to see what hypnotism would do for him. He was in a very low physical state when I saw him, and he died some ten months after of pulmonary tuberculosis. His father had died of the same disease when N. was an infant. His mother was a neuropath. He gave me the following history: From early youth his only companion had been his nervous mother. He was not brought up with children of his own sex, but continually with his mother's friends. He early developed musical talent and was allowed to cultivate it. After prac-

ting for some hours at the organ he would become very nervous, a condition bordering upon hysteria. He was of a very slight frame and somewhat effeminate in appearance. There were traces at times of a normal heterosexual instinct. After one of these nervous attacks when he was about 20 years of age, he was suddenly seized with a passion to practice buccal onanism and grasped the opportunity that offered itself in one of the choir boys. He found in the ingestion of the semen his longed for sedative, and from that time forward, when these attacks came, he was oblivious to everything else except his one passion. He would stop at no crime to obtain his desires. He told me that he knew that he would not stop at murder to obtain his quantum of this disgusting stimulant. After getting what he insanely craved he would become himself again for several weeks; the periods of desire becoming more frequent up to the time of death. The morning he died he had one of these paroxysms, and vainly tried to get out in the street to find a passive subject. He had no desire or inclination toward pederasty or sodomy (*inmissis penis in anum*) but his advice to others was, *Ut in os semen injiciatur atque semen devoret*. He would even steal petty articles to sell in order to obtain money to pay a male prostitute. Several times he had been caught by the police while in this lycanthropic condition attempting to obtain his sedative, and sent to jail. He told me that he did not realize at the time that he was doing anything but what was natural, and if he had succeeded in obtaining his pabulum before caught, the disgrace and shame of being arrested was the cause of bringing on another attack almost immediately; was he caught before the act was accomplished, the whole proceedings were a blank to him until he obtained his abnormal stimulant from some of his jail companions. It is not necessary for me to comment on this case. It carries its own moral.

Among prostitutes sexual perversion is often quite frequent, but it is of the acquired form. From those I have questioned about their habits I surmise that they are acquired by those of great sensuality, who have become satiated with the normal conditions and from constant intercourse with perverse and senile men rapidly fall into these disgusting habits. We have the statements of prostitutes who cohabit with donkeys and large dogs, that they have no longer any desire for men. But as these are mostly acquired cases they scarcely call for much attention on the part of the student of congenital sexual perversion.

The following case presents some aspects of perversion that I have not heretofore seen reported: Mrs. W., aged 39 years, was sent to me about a year ago. She was a chronic masturbator. Had practiced Lesbian love at boarding school. Was married to a strong, healthy man when about 20 years of age. She states that she derived no pleasure during sexual intercourse, but received great pleasure from masturbation immediately after the normal coitus. Has no longer desire for Lesbian love. About ten years ago she ceased having any actual sexual intercourse with her husband, but forced him to mutual self-abuse. She got men into her house at all hours of the day and night, and after compelling them to expose their person, would immediately retire to her room for the purpose of self-pollution. The strangest feature of the case is, that no desire is aroused by seeing the same man more than once. Hence she is a constant searcher for strange men. So violent and persistent has this perverted passion become that she will actually invade strange houses, clubs, theatres and public places and pounce upon her victim. She will lay hands upon him and rapidly retreat to the first convenient place for self-gratification. Her husband left her several years ago, after trying to get her legally committed

to an insane asylum. She has often been arrested by the police for her actions, but through the mistaken kind intervention of friends, allowed to go free. She is a very intelligent woman, and aside from this perversion is, in every way, a respectable woman. This is a case of true sexual perversion, not a case of unsatisfied hyperæsthesia sexualis. She once stole a pair of trousers that she had seen a man wear, and after fondling them had a true venereal orgasm. She was caught stealing these trousers in a boarding house.

I know of the case of a boy aged sixteen years who had ample opportunity of gratifying normal passions, but who was indifferent to the opposite sex. He was very mature for his age and a fairly bright boy. His parents lived in the city, but as the youth had an inordinate desire for the country he was sent to school in Connecticut. He had only been in the village a day before a farmer missed a sow, and it was found secreted in an out-house on the school grounds. He acknowledged the theft and the matter was overlooked. In a few days he stole another one. The boy was pronounced a thief, and thus branded was sent away. He remained home in disgrace for several days and then disappeared. He returned dirty and reeking with foul odors. He was then watched and followed and finally traced to a barn on the outskirts of the city where he was caressing a filthy old sow. So strong was his passion that force had to be used to take him away. Every opportunity was given him to create a normal sexual desire without any favorable results. He did not masturbate, and when under restraint showed no inclination toward sexual perversion with other animals. His nocturnal pollutions, which were frequent, were always accompanied by mental pictures of a wallowing sow. After being released from a private institution his first act was to steal money enough to purchase a sow. He was then placed in an institution for an

indefinite time, failed rapidly in mental and physical vigor, and died at the age of twenty-three years.

That a certain lack of moral sense is generally an attribute of the personality of the sexual pervert has been my experience. Of course I refer to a lack of morality aside from the concomitants of the perversion. One can readily understand the committing of crime to satisfy their abnormal passion, but aside from this they are not to be trusted as a rule. To-day there is a man in the Connecticut State's Prison condemned for stealing funds from a bank where he had been a trusted officer for years. It was well known that he was a buccal onanist, yet he was allowed to retain a responsible position. There are a large number of persons to-day condemned as criminals, or as hopelessly insane, who, if they had been properly understood, would have been placed under the merciful treatment they require. To place the sexual pervert in jail or commit him as an insane person is to push him over the borderland that lies between mental alienation and sanity. Especially is this true of acquired sexual perversion.

I have purposely avoided taking up your time by not commenting on these few cases presented to you. A complete and thorough knowledge of the subject of sexual perversion and inversion considered as a disease is necessary to the jurist of to-day. They must be able to distinguish the congenital and acquired form as a disease from the vulgar vice of the male and female prostitute. As Kraft Ebing says: "Every anomaly of the psychosexual emotion must be described clinically as a functional sign of degeneration."

SOCIOLOGY THE GROWTH OF THE CENTURY.

BY MORITZ ELLINGER, ESQ., SECRETARY INTERNATIONAL MEDICO-LEGAL CONGRESS, CORRESPONDING SECRETARY
MEDICO-LEGAL SOCIETY.

It was reserved for this century, so productive in scientific investigations and so comprehensive in its scientific wrestling with the disciplines that constitute the storehouse of human knowledge to add one more branch to the philosophy of history, which comprises all the sciences that deal with the growth, the development, the government and prosperity of society and indeed overshadows in its wide bearing all the sciences that attract the attention and the labor of the student, philosopher and statesman. Former ages dealt with man in his individuality, his qualifications, his organization, his development, his relations to the narrower circle in which he moved, the potentialities of his capacity of unfolding, without taking in consideration his relations to society at large, the reciprocative duties between him and society or of the laws which we now recognize as underlying the march and progress of society at large and which have wrought such radical and revolutionary changes in the government of men, lifting up the race to that high plane upon which the quality of all human beings can be realized. The movement and aspiration of individuality and individual nations has been transplanted into movements and aspirations of the entire human family and the progress or retrogression of tribes and populations in any one part of the globe, affect the fate and fortunes of

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peoples and nations in every other part of the world. The astounding change which steam and electricity have wrought in locomotion and communication, have knitted together the human race so closely that nationalities which stood outside of the pale of western civilization have been forced into rivalry and close competition with all other nations and civilization and have become important factors in the shaping and forming of the progressing development of the race.

The word Sociology first appeared in print in its French form, "Sociologie," in Auguste Comte's *Positive Philosophie*, the first edition of which was published in 1839. In a footnote to the 3rd edition, published in 1869, he says:

"I think I should venture, from this time on, to employ this term, the exact equivalent of my expression, Social Physics, already introduced, in order to be able to designate by a single name that complementary part of natural philosophy, which relates to the positive study of all the fundamental laws proper to social phenomena. The necessity for such a determination to correspond to the special aim of this volume will, I hope, excuse here this last exercise of a legitimate right, which I believe I have always used with all due circumspection, and without ceasing to feel a strong repugnance to the practice of social neologism."

Since Comte a number of modern scientists have not only explored the field, but two scientists are the eminent leaders of that new Science, who pointed out the paths which must be trod in order to cultivate the field so as to yield fruitage of practical use; they are Herbert Spencer and J. S. Mill. The labors of Herbert Spencer in this direction overshadow probably all his efforts in the direction of mental and natural philosophy, which constitute him the greatest philosopher of English speaking people of this century. He furrowed deep down into the soil of history to expose in the light of day the eternal principles which governed the shaping and growing of human society and which are as immutable as all the laws which govern the physical and moral universe, and which must determine the future development of society.

In the last chapter of his last important book, Mr. Herbert Spencer says:

"There exist a few who * * * look forward through unceasing changes * * * to the evolution of a Humanity, adjusted to the requirements of its life. And along with this belief there arises, in an increasing number, the desire to further the development. * * * Hereafter the highest ambition of the beneficent will be to have a share * * * in the making of man. Experience occasionally shows that there may arise extreme interest in pursuing entirely unselfish ends; and, as time goes on, there will be more and more of those whose unselfish end will be the further evolution of humanity.

J. S. Mill, the radical and profound thinker, recognized the importance of the great field which the new science would open and became one of the great pioneers in mapping out the road to be traveled for the benefit of humanity. He says in one of his works:

"This science stands in the same relation to the social, as anatomy and physiology to the physical body. It shows by what principles of his nature man is induced to enter into a state of society; how this feature of his position acts upon his interests and feelings and through them upon his conduct; how the association tends progressively to become closer and the coöperation extends itself to more and more purposes; what those purpose are, and what the varieties of means most generally adopted for furthering them; what are the various relations which establish themselves among men as the ordinary consequence of the social union; what those which are different in different states of society and what are the effects of each upon the conduct and character of man."

These characteristics of Mill refer especially to political economy, one of the chief and leading branches of sociology and which illustrate every discipline within its scope. If we consider for a moment that the principles underlying the questions involved and the proper guidance of the economical affairs of a nation are the moving forces in the regulation of national politics and the determinants of peace or war it will be readily perceived that the study of political economy is of the most paramount importance. The commercial relations between nations shaped in modern days the political relations between them and upon the economic policy of a government hinges the prosperity, welfare and peace, or the financial ruin, depression of trade

and social turmoil of the nation. It is true the primary cause of the French revolution was not the bad economic condition of the country, but rather the unmaturing relations between the masses and the privileged classes, but the final social cataclysm was helped and precipitated by the stupid financial policy of the government and the failure of the crops. The American revolution received its impulse from the discontent of the American Colonies with the imposition of taxes in the determination of which they had no voice and to revert only to the most recent years in our own country, it is readily perceived that the questions of currency and of taxes have been the bone of contention between the political parties and lifted one or the other in power or the reverse. England's power with an army so small that it would not play any figure in a contest with the standing armies of the European continental powers, is nevertheless most potent in her influence among the governments of the earth on account of its financial and commercial power. A great social and political factor, risen in modern times, social democracy, simply contests the justice and right of the principles of political economy, upon which constituted society tests and agitates for the substitution of a new system which it is claimed can alone do justice to the claims which all have to the enjoyment of life. The contest is no longer confined to one country, or one continent, nor to the subject against the King, or the privileged nobility, but it is international and is waged between the masses who toil, against those who direct the toil. Thus political economy is the great science of modern days, the knowledge of which and the ability to apply its teachings in the direction of public affairs may lift the true statesman to a position in which he becomes the savior and benefactor of his country, to lead and guide other nations in the path of prosperity and happiness.

Political economy, however, as I stated before, is only one of the branches of sociology with which medico-legal science is probably least related and I will confine myself to a few other subjects which come within the range of special objects within the scope of medico-legal science.

Public morals and public hygiene are subjects which have received greater public attention than at any previous period, and deservedly so, and both of them are questions that come within the purview of medicine and law, but above all as subdivisions of sociology. The care given by general and municipal governments to the proper drainage in large cities and populous country places, has been the most effectual means to stamp out zymotic diseases and contributed to increase the average longevity.

The share allotted to the masses in shaping the government and administration of state and municipal affairs has carried conviction to the overwhelming majority of which society is composed that theirs is the responsibility if disease decimates the population, and the efforts of scientists find therefore the support, without which they would be powerless to enforce regulations which are apt to maintain a high standard of public health. In countries where a low degree of intelligence is the rule, the authorities meet with strong opposition in the measures which are needed to stamp out epidemics, and only where a high degree of culture prevails is proper and voluntary support given to regulations which modern science is agreed upon as most efficient. Even where the authorities have been suspected of lacking the proper energy the community is apt to rise and take measures of their own accord to enforce sanitary regulations. We have seen in our own city, ladies form societies for the purpose of enforcing the proper cleaning of cities. Public sanitation, then, is one of the leading branches of Sociology, and should be one of the objects of

medico-legal science. It is only by the coöperation of medical scientists that the measures can be perfected which must be taken and enforced and the legal fraternity must devise the necessary laws to carry such measures into effect.

Another branch is one of vast importance and which should receive the attention of the medico-legal fraternity to a greater extent than has been done. It is the regulation of traffic in intoxicating beverages and the proper supervision of the consumption of alcoholic, vinous and malt beverages in order to retain control in the interest of public morals, without trenching farther than needful upon the rights of individual and the self-determination of the citizen.

The abuse of intoxicants is complained of in more than one country and the subject of anxious consideration of every person interested in lifting up humanity to a higher civilization and if any question can be designated as a burning question, it is the liquor question. It requires the services of our best medical men and the arduous and persistent labors of the statesmen to find the golden mean. The question unfortunately is so much quickened by political and partisan issues that passions are inflamed which should have no voice in the determination and settlement of it. It is for the medical expert and the practical legislator outside of the political field to calmly consider the question in all its bearings and coöperating together in a sociological and medico-legal sense, clear the atmosphere of all side issues and agree upon measures that will advance the public welfare and elevate public morals.

I refer to these questions in brief as an illustration of the wide field occupied by Sociology and which certainly is part of the domain of medico-legal science.

Criminology is also one of those scientific disciplines which must be considered an achievement of the most

modern aspirations and which become only possible in a civilization which places man as the highest object of study. In former ages the criminal was only considered a subject to be visited by punishments for the commission of crime, without an examination of the motives that actuated it. Correction of the criminal was not taken in consideration, it was more the idea of retaliation practiced by the so-called laws of justice. Modern science making exhaustive researches into the growth and development of the human organism has established the fact that a large contingent of the criminal class are victims of organic deformation, have inherited dispositions which they cannot resist, which compel their actions with irresistible force and are more properly the subjects of sympathy and pity than of punishment. It has been demonstrated by psychiatrists like Lombroso that our system of dealing with the criminal is based on prejudice and tradition of injustice and that correction rather than punishment must be the aim of judicial administration. It is a triumph of humanity to have reached such a point where we can divest ourselves of the notions inherited from the past and take the lessons to heart which our progress in the knowledge of human organism will help us to reform the erring brethren of society, many of whom are more sinned against than voluntary culprits. The questions of heredity, atavism, wrong education, will form henceforth a large part of the studies of the medical student as well as the member of the legal fraternity and can certainly be best advanced by the coöperation of law and medicine.

TELEPATHY.—PSYCHOMETRY.

BY EDWIN CHECKLEY, ESQ., PROF. PHYSICAL CULTURE,
NEW YORK CITY.

Telepathy, or, as I prefer to speak of it, Psychometry, a word coined by Joseph Rhodes Buchanan, M. D., in 1842, the better to express the character of what he termed a new science and art, being analogous to the words thermometer, barometer, electrometre and similar terms. As the thermometer measures caloric, so psychometry measures the powers of the soul. The power of this soul-measuring force is limited only by the extent of that which encompasses all things. I long ago became convinced that no matter how cunningly a person would contrive to hide their true self, their whole nature, ideas, disposition and purposes could be seen, felt and understood without any explanation being given other than that which their mere presence in the same room as the psychist would afford.

What Buchanan in his work on psychometry says I feel to be true: "That as a science, and philosophy, psychometry shows the nature, the scope, and the *modus operandi*, of those divine powers in mind, and anatomical mechanism, through which they are manifested; while as an art, it shows the method of utilizing the psychic faculties, in the investigation of character, disease, physiology, biography, history, paleontology, philosophy, anthropology, medicine, geology, astronomy, theology, and supernal life, and destiny, social progress, more important as to human enlightenment, and elevation, than all the arts and sciences heretofore known. The dark underworld of intellect, in which

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the responses of oracles, the revelations of magnetic somnambules, the prophecies of the saints, the forecasts of the fortune-teller, the mysterious presentments, and sudden impressions, the warnings of death, calamity, or accident, and the mysterious influences, attached to places, apartments, amulets and souvenirs, is illuminated by the light of psychometric science, and its phenomena, made entirely intelligible; for psychometry demonstrates in man, and explains the mechanism of those transcendent powers which have heretofore defied the comprehension of philosophy, and have been regarded with defiant hostility, by materialistic cultivators, of mere physical science, while they have been welcomed by poetry, religion, and the deepest emotions which ally men to heaven."

There is almost unlimited evidence to prove that there is a means by which people communicate with each other at a distance, through a medium that has not yet been physically examined or seen, and I doubt that it ever will be.

This power to see, feel and hear not only all that has happened in the past, but to prognosticate part of the future, rests upon the skill of the psychist. I feel satisfied that by cultivating what I term the involuntary function of the mind, a mental daguerrotype of any place, thing or person can be got as perfect as the physical one of the features obtained by the agency of solar light. For to the true psychist whatever has been and is, cannot be hidden, any more than written histories of countries cannot be read by those able to read all languages. The greater the thing desired, whether it be the mental skill of the mathematician, or the physical one of the musician, it requires a certain order of intellect to become proficient in them, so too in this field, old as life though it be, it is still new.

The two faculties of the mind principally cultivated are

memory and imitation, and on the development of these two the ability of the individual depends, to reason, devise and make whatever they desire, or their position in life demands. These faculties I term the voluntary functions of the mind, and their effects, such as talking, laughing, walking, etc., etc., are as capable of being controlled as is any muscular movement of the body. These faculties predominate in the majority of human race. The extent of their development depends upon the desire, environment and possessions of the individual. In consequence, those faculties of the mind which I term involuntary are in a state of absolute passiveness, and it is only when the individual becomes weak and diseased that the voluntary faculties are unable to govern the body, then the involuntary ones take precedence. The first sign of this mental battle (so to speak) is illustrated in delirium, when the past rises up, and old scenes are re-acted involuntarily by the individual, for, as he becomes weaker, the cultivated faculties are unable to assert themselves. In this phase of mental change the involuntary or psychic functions gain precedence, and the soul seems to grasp all that is contained within eternity. Though gradually limiting its powers to those things which have been connected to the individual, such as holding converse with relatives who have died, or communicating with friends who are still living but at a distance.

The inability of the individual to explain the reason, or exhibit such peculiar phenomena on their recovery of health, is generally excused, as being caused by unaccountable or supernatural means, and yet, if the peculiar function that enables the squirrel to know a season ahead that its food will be scanty, and thus provide a store in excess of its usual habits, were investigated, with the causes that enables fishes to leave in shoals a region which they had been in the habit for years of visiting, then if these facul-

ties which enable these two distinct forms of animated matter to foretell coming danger in time to escape it were thoroughly understood, it is possible that instinct, as it is called, might be able to explain telepathy; for, if animal life lower than men possess this faculty, and people in their last struggle with life show such peculiar phenomena, I am positive those who are in health can acquire the one and cultivate the other of these mental limbs, so to speak, that make things seem to many supernatural.

An instance of the lack of mental development, is shown in that inability to govern the movement of the limbs and muscles, even after the movement has been both illustrated and described, not because of any physical defects, but through the lack of that mental development that enables the being to call into play that part of their nervous system, will or mind through whose medium they would be enabled to accomplish the movement desired. So little is the mind developed, apart from those functions referred to, that even those scientifically trained in the study of the mechanism of the man are, as a rule, unable to stand, stoop, walk or even execute the common action of breathing in a manner that is conducive to maintaining the general health, through the mental inability to govern their movements, and so, as physically, the majority of mankind drift like derelicts at sea, so too do they mentally starve, and develop unconsciously an amount of mental inertia, that seems almost impossible to overcome.

In conclusion, I would say that as photographers succeed in producing a representation of objects which the physical eye can see, so psychometry, or telepathy, can reproduce all scenes and sounds that anything, animate or inanimate, has passed through. The power of the psychometrist to read and describe all that comes to him, through this faculty, is, as I have before stated, limited by

his skill. As one musician is more skillful than another, so with the psychist. If the prevalence of this faculty among the medical and legal profession were a fact, it would be of incalculable benefit to the mass of mankind; for a true diagnosis in disease could always be made, and perfect justice in law be administered. This science can be studied by any one who has the power to breathe or talk, irrespective of their birth or training, I am positive.

RESPONSIBILITY OF THE INSANE.

BY IRVING C. ROSSE, A. M., M. D., F. R. G. S., WASHINGTON,
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The matter of determining the responsibility of the insane, especially in criminal procedures, is often one of the most difficult questions that can come before a court; and most of us who have had much to do with forensic medicine in this country are struck in many instances with the bungling application of medical knowledge to legal purposes.

In late years a great deal, good, bad and indifferent, has been written by way of suggestion and reform, the mere mention of which would lead to great prolixity; but it does not seem to me that enough stress has been laid upon the frequent incompetency and unsuitableness of the medical advisors selected by the court. It has happened to me on various occasions to see an inexperienced man not only ignorant of psychiatry, forensic medicine, and nervous diseases, but with most limited knowledge of medicine, testify to the sanity of a prisoner who had been pronounced insane by skilled experts; and this testimony, too, has outweighed that of the other side, notwithstanding the fact that the witnesses knew nothing of the pneumogastic nerve, nor of such differentiations as subjective, objective and ejective symptoms, and could not explain, define or tell the difference between illusion, delusion and illusive transformation.

Another notable instance illustrating ignorance of the diseases of memory is that of a man suffering from general

paresis, who was pronounced sane by two very competent general practitioners, on the ground solely that his memory was good, as he recalled many of the trivial events of his boyhood. On subsequent examination by an expert it was found that this man could not add up a column of six figures, change money, nor tell the amount of three ordinary coins.

In the District of Columbia I was lately employed in a case of insanity in which the defendant's execution seemed to be demanded by public clamour, despite his insanity, which three physicians declared did not exist. The inquisitorial procedure conducted by three judges, though a long one, rather strengthened my conviction as to the prisoner's insanity. Events following the inquiry up to the moment of execution as well as the post-mortem finding, corroborating my diagnosis and showing the experts for the prosecution to be utterly in error, raised very serious doubts in the minds of fairminded persons as to the finding of the court.

In the last year or two, in the Washington courts, we have examples of questionable findings in cases of aphasia, paranoia and epilepsy, in which irresponsible individuals exhibiting a morbid degeneration of a suffering organism and morality in ruins, have become the victims of judicial predeliction and the sentiment of the hour. The recent case of *Taylor*, an epileptic wife-murderer, and would-be suicide, may be cited as a case in point. In addition to his bad heredity there was a clinical history of sunstroke, a depression of the skull from a horse-kick, choked disk, and morbid eroticism. After careful examination and inquiry I testified that the man was of unsound mind and not sufficient master of his own actions to enable him to choose between right and wrong in the offense for which he stood indicted. Dr. William A. Hammond and others

testified to substantially the same; yet a physician from another city, whose chief qualification seems to have been that he was an insane asylum superintendent, took the stand without even examining the prisoner and, in declaring his theoretical opinion as to the prisoner's sanity, ignored the doctrine of heredity and the post-epileptic mental state, and among other things asserted; "*There is no such form of epilepsy recognized as nocturnal epilepsy.*"

Testimony of a similar nature was given by the same physician in the case of *Beam*, a crazy man who murdered his stepdaughter. After about fifteen minutes' examination he was pronounced sane and handed over to the gallows. During an effort to secure a new trial I was requested by the prisoner's lawyers to make an examination. The presence of the usual stigmata left no doubt in my mind as to the prisoner's insanity. The main objection to granting a new trial appeared to hinge on the phrase "unsound mind," which I used in my affidavit, although it is of legal invention, and preferable to the term "insane."

In these three cases executive clemency was invoked, but the attempt of the executive to be its own medical expert seems to have proved about as fit as his efforts at tariff reform. In one of the cases, however, popular indignation was so great and such pressure was brought to bear that the prisoner's sentence was commuted to imprisonment for life.

The foregoing cases furnish striking instances of the non-recognition and disregard of medical expert evidence by the average citizen. In the District of Columbia without law to regulate the practice of medicine charlatans and all sorts of mediocrities prevail to such an extent that the public show little or no discrimination between an educated medical man and a quack.* Consequently in public

* Since writing the above Congress has passed a law regulating the practice of medicine in the District.

estimation the opinion of the most incompetent so-called doctor, is just as good as that of the able and experienced.

In Germany where the pig-headed and brass-handed rule of blood and iron comes down heavily, they manage such matters differently. So much heed is given to medical intervention in matters of the kind that of late we read of lust-murderers being declared insane when we all know that such persons in the United States would not only meet with no mercy in a court, but would in all probability become the summary victims of a disorderly mob of lynchers.

Many persons say, however, in reply that the class of defective individuals of whom we speak are best disposed of after the manner of "mad dogs," which we do not hesitate to kill on the ground of public safety. While such a proceeding may obtain in pioneer communities it is doubtful whether any argument can justify similar steps for the protection of society in these days of growing civilization and christian enlightenment.

The question naturally occurs, what is the remedy for the existing state of affairs? To which it may be replied, increased education of both physician and lawyer, which will lead to a better understanding and an abler selection. In our country the same spirit that produces fast yachts, fast locomotives, swift cruisers, and invincible athletic records will yet improve on old English traditions and give to both law and medicine such impetus as they have never before experienced.

DUPLEX PERSONALITY. REPORT OF A CASE.

BY WILLIAM F. DREWRY, M. D., OF PETERSBURG, VIRGINIA.

It is with unfeigned reluctance that I present this paper before this body of learned jurists, psychologists and physicians, representing every phase of medico-legal science. I trust, however, enough of interest and value may be found herein to compensate you for your time and indulgence.

Duplex personality is a psychical condition, which did not till recently attract very much attention, but since brain function and brain action have begun to be more deeply and more thoroughly studied, it has been brought forward as a subject worthy the consideration of the profoundest thinkers. Several valuable contributions relating to diseases of personality, as they are called, have recently appeared. The greater portion of the literature comes from the French, but this country is by no means without its students and investigators in this field of science. Mr. Hodgson, of Boston, Dr. R. Osgood Mason, of New York, Dr. A. E. Osborne, of California, Dr. Irving C. Rosse, of Washington, D. C., Dr. Weir Mitchell, of Philadelphia, and others, have reported interesting cases of duplex or of triple personality, or of periodic loss of memory.

The Society for Psychical Research and many eminent psychologists are making studious efforts to understand and to explain the strange mental phenomena exhibited in this class of cases, but no one has yet been able to give a clear, comprehensive explanation of them. They are still

unsolved mysteries of mental action. However, authenticated data, facts regarding cases, etc., are being accumulated and studied, which in time will doubtless lead to a scientific elucidation of the psycho-pathology or the psychologic forces involved in duplex individuality, temporary extinction of memory of the past, and allied conditions.

What is understood by that remarkable abnormality, known as duplex personality, is that there is a second and distinct consciousness or individuality entirely different from the original or primary one,—that there are two, more or less complete, phases of existence. In this state of abnormal mentality, mental activity is not suspended. The actions of the mind, however, are in the nature of automatic operations; there is a sort of “reflex activity of the cerebrum.”

“We find,” says Mason, “this second personality coming to the surface under at least three conditions, namely, physical weakness, sickness or shock—ordinary somnambulism and in the hypnotic trance.”

It has been demonstrated that by means of hypnotism this second personality or “subliminal self with its added powers of perception,” may be brought into action and all the incidents which occurred during that period, clearly related.

Says Littre, “Consciousness, personality, self—these constitute the individuality, of one person as distinct from another. Although these words have different meanings, they convey the same idea. Each of us, then, has his personality, his consciousness, which makes up the total of moral and physical facts that characterize us. But there are morbid states that alter their consciousness and give to the person so affected the appearance of being double.”

Somnambulism and some dream states might be considered typical examples of another personality—double con-

sciousness—somewhat analagous to the psychic condition existing in the class of cases we are studying. Hypnotism, or induced somnambulism, presents, in many respects, the same kind of mental action. The hypnotic state is perhaps simply an “extension of that same disarrangement of the cerebral functions which occur in vivid dreams.” It is well known that after sleep-walking, or after hypnotism, nothing that may have occurred while in either of those states is remembered. A somnambulist, then, it would appear, exhibits some of the chief characteristics of an ideal double consciousness.

Instances of temporary loss of memory, of mental abstraction, and the like, are by no means rare. A remarkable “dislocation of memory,” to use the term suggested by Sir H. Holland, occurred once with Sir Walter Scott. He dictated, during a prolonged illness, to his amanuensis, the whole of the Legend of Montrose, almost the whole of Ivanhoe, and the greater portion of the Bride of Lammermoor, while in a state of “second consciousness.” When the works were finished and handed him, *“he did not recollect one single incident, character or conversation.”* The “original incidents” had not been erased from his memory, but he did not recollect a single character woven by the romancer, nor one of the many scenes and points of humor, nor *anything with which he was himself connected*, as the writer.” (In Carpenter’s Mental Philosophy, pages 139 and 444, quoted from Lockhart’s Life of Scott, chap. XLIV.)

The counterpart of this strange mental condition is sometimes observed in certain delusional insanities. A patient suffering under delusion becomes, as it were, transformed into another personage, some dignitary, Jesus Christ, or even the Eternal Father, or is two or more different and distinct characters at one and the same time. In circular

insanity there is a sort of dual existence, an alternating of entirely different mental states—melancholia and mania. In these cases there is usually insufficient or faulty nutrition in the brain-substance.

Asynesia (periodic loss of memory), or temporary suspension of consciousness, may be caused by certain drugs, some forms of disease, such as hysteria, or epilepsy, toxic elements in the blood, change in functions of the circulation and of nutrition, traumatic or organic lesions of the brain-substance, or of the nerve-cells. I knew of a soldier in whom a depressed fracture of the skull caused memory to be totally eclipsed for years, and the very instant the pressure on the brain was removed, memory was re-established, and he became his original self. The time intervening between the date of the injury and that of the operation was an absolute blank in the patient's memory, due, of course, to pathologic conditions.

Dr. Forbes Winslow ("Mad Actors," Pall Mall Budget, Oct. 14, 1886) says that in mad actor's periodic asynesia occurs as a rather characteristic feature.

Cases of duplex personality, or temporary loss of memory, are of special interest from the standpoint of forensic medicine. The sudden and unexpected disappearance of persons, and their assuming entirely different natures and characteristics—distinct and absolute change of personality—is not always proof positive that "something is wrong," that there is domestic unhappiness, that the clutches of the law are being evaded, etc. That fugitives from justice, or from the "trials of life," are frequently—too frequently—connected with the "disappearance syndicate" is unquestionably true; but it is equally true that there are those who "drop out of sight," etc., without any apparent cause or reason. Their sudden, purposeless "stepping out into the great unknown" is shrouded in mystery. Some

are never again heard of, and whether they commit suicide or not is unknown. Others after a time reappear and take up the thread of life where they left off at the time they went away, but are unable to give any account of themselves during the existence of their other self.

Whether such mysterions mental manifeststions are due to masked epilepsy, insanity, "diseased condition of the personality," or what, are matters that require more careful consideration and extended study. At any rate, such mental phenomena, which were formerly considered to be exclusively in the domain of metaphysicians, are now receiving attention from psycho-physiologists, from whom a clearer explanation will doubtless come.

THE CASE.

The following case, which came under my observation within the past year, and the details of which were kindly given me by an eminent practitioner of Virginia,* who was the family physician of the patient, typifies the peculiar phases of duplex personality and periodic extinction of memory, and is interesting from a psychologic, as well as clinical point of view. It is also of interest as regards forensic medicine:

Mr. K. was a man fifty years old, of splendid physique, in good health, in fairly comfortable circumstances, doing a mercantile business, sober, moral and industrious, of affable disposition, popular with a large circle of friends, member of several secret benevolent orders, and happy and contented in his domestic relations. He was born and reared in the state; had resided and conducted business in ——— for twenty or more years, and deservedly bore the reputation of being a correct, straight forward man in every particular. He had for years been one of the town officials.

Dr. H. G. Leigh, Sr., of Petersburg, Va.

One of his near relatives (an uncle, I think) at about the age of fifty, without any apparent reason whatever, went out west, leaving his wife and children, and was not heard of for many years. Finally he came back on a visit and remained a short time with his family and old acquaintances. No explanation was given of his strange conduct. It was thought that he had some form of mental disease. I mention this case to show that Mr. K. might have inherited some neuropathic taint or eccentricity.

One day, while apparently in perfect health, without any premonitory symptoms of mental derangement, Mr. K. went to a northern city to purchase goods for his store. While there two days he transacted a great deal of business, met many old friends and exhibited no indication of aberration of mind. Starting homeward he registered as a passenger on a certain steamer; feeling very tired he secured a state-room, to which at once he repaired, changed his linen, etc. When tickets were collected he was missing. He had suddenly and mysteriously disappeared. No one had seen him leave the boat, jump or fall overboard. An acquaintance, however, said that he was reasonably certain that he saw Mr. K. several hours after the boat had left, in one of the depots in the city. He was sitting down, hat pulled over his face, and seemed to be in a "deep study," so he was not disturbed. Mr. K's open valise and all his clothes, except those he wore, were found in his state-room. The room door was open, but the key had been taken away.

Some suspected he had been robbed and thrown overboard; others thought he had (suddenly) become insane, or had had a fit and fallen into the sea; the suicide theory was also indulged in, and the opinion was entertained by some that he had absconded. But what had become of him, why, when and how he disappeared were mysteries. He

had, unobserved, simply "stepped out into the great unknown." A vigorous search was made to find him, dead or alive, detectives were employed, the newspapers teemed with accounts of the strange and unaccountable going away of this well-known man, but no clue was to be had that would throw any light whatever upon his mysterious disappearance.

Finally search was abandoned, the theory that he was dead accepted, and the court appointed an administrator of his estate and a guardian for his children. His business was purchased by his son, and everything was moving along smoothly, when, *six months after* he was last heard of, he suddenly and unexpectedly appeared at the home of a relative in a distant southern city. He was brought home in a composed, but partially dazed condition, able to recognize but few of his friends. He was an entirely changed man—the physical and psychical metamorphoses were quite complete. He was hardly recognized by his friends. He had reduced in weight from 250 to 150 pounds and was very feeble. He wore the same suit of clothes he had on at the time he disappeared, and had in his pocket the check and key which were given him on the boat.

He was at once put under treatment, and in four weeks he recovered his previous bodily and mental health, and has since conducted his same old business with his accustomed skill and industry. A day or two after his return home an abscess, deep down in the auditory canal, broke and discharged a large quantity of sanguino-purulent matter. Immediately thereupon improvement began and went on rapidly. *This was a remarkable fact*, and is, I think, worthy of special note.

Hear Mr. K.'s own account of his strange case: "I was feeling very tired—thoroughly fatigued—after a very busy

day in the city, so went to my state-room immediately upon going aboard the boat and changed my clothes. Up to that time I was thoroughly conscious, but after that I recall nothing—all was oblivion—till six months later when 'I came suddenly to myself' in a distant city in the South, where I knew no one. I found myself driving a fruit-wagon on the street. I was utterly astounded. Why I was there, how and when I got there, where I came from, what I had been doing, were puzzling questions to me. Upon enquiry I learned that I had been there, and at work, for some time. My life, since I was in that state-room had been an absolute blank to me. I can give no account of myself during that period of time. I started at once for Virginia, but, on the way I again lost consciousness, though only for a day or two. When further on my way home, I felt so utterly worn out, I stopped in a certain town and went to the house of a very near relative. From there I was taken home. I was in a half-dazed, confused condition, and remained so some days longer. I am now feeling well and all right."

This case bears many striking resemblances to others that have been from time to time reported, but there are two points of special interest. First, the inherited tendency to eccentricity, if not to insanity. His mysterious disappearance occurred at the same age at which his progenitor, so strangely disappeared. Second, the abscess in the ear, the discharge of which was followed by a rapid return to normal mentality. Is it not probable that this abscess had some etiologic connection with the mental trouble, by producing a maladjustment of the cerebral functions, a disturbance of the circulation, an endarteritis, which would induce a condition of encephalic anæmia, or a suppression of suppuration, which would effect an hyperæmia?

"Loss of memory," says Rosse, "following organic lesion, dynamic trouble, or any sudden metabolic disturbance of the brain, may recover rapidly." Certainly Mr. K. made a rapid, uninterrupted recovery after the abscess had discharged. His physician said that there was a perceptible change for the better just as soon as the ear was relieved.

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A HISTORY OF A CASE OF HEREDITY: A PSYCHO-PHYSIOLOGICAL STUDY.

BY WILLIAM LEE HOWARD, M. D., BALTIMORE, MARYLAND.

Recent studies in Psycho-Physiology have opened a vast vista to the investigating mind; and promise to enable us to better understand what heretofore has been a bewildering maze of incongruities existing in our social condition to-day. The sudden erratic actions of individuals tutored by morality: crimes committed by persons who have always shown strong resisting powers of judgment and consciousness; and periodical acts of viciousness by children, are now being explained by the investigations that are daily being made in Psychology. I do not refer to the reprehensible acts and crimes committed by the drug victim, alcoholic degenerate, or the morally insane, but to the acts of those in whom we can distinguish no objective or organic cause. Nevertheless we can find in these latter cases psychic and somatic stigmata. In these cases the impulse to act and think is the unconscious, and consciousness finds subsequent, and in some measure, plausible reasons for the thoughts and deeds, the real source of which is unknown to itself. It is not my intention in this paper to discuss theories; but to show by quoting a very interesting case, that what a few years ago would have been called a crime is a disease. The mother of the subject of this history married some eighteen years ago a man who stood high in business and social circles. He was wealthy, and greatly respected for his moral integrity. A girl was born, and

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the father seemed to enjoy the company of the little one.

When the child was about five years of age the mother was shocked to find that the little girl was a most expert liar, "and held to the lies in a way to amaze you." I am quoting the mother's statement: "As she grew older this habit grew upon her. Sometimes she would tell the most glaring lies for no reason at all, and had she stopped to consider she must have known that she would be discovered." In spite of correction and punishment the same conduct would be repeated. When the child was about ten years of age the mother was obliged to travel abroad for her health. On none of these trips was she accompanied by her husband; although she received letters from him daily for three years. Then came the great shock.

To quote her statement to me: "I found myself a deserted wife in a foreign country. My daughter was with me. It was there that I learned that my husband's life was a tissue of falsehoods. He had during our married life been three times before the Grand Jury to answer to a criminal charge. He had embezzled ten thousand dollars from a friend, and for four years had been known as the lover of one of the most notorious keepers of a house of ill fame." Then for three years mother and daughter were lonely and homeless; the child had to give up school and had no amusements. "About this time puberty was established, and at such periods she was most unreasonable; and at the third menstruation disappeared. She had frequently threatened to kill herself and I was afraid that she had carried out her threat. I found that she had gone off with a young jockey and got married. Her husband was eighteen years of age." A few weeks after, the jockey was killed, and she returned to her mother. She only remained until her menstrual period arrived when she again disappeared. During the intervals she was a reasonable, lov-

ing and dutiful daughter. "After being away three days she returned but could tell nothing of where she had been or why she went." Finally she excused her conduct by explaining that she had run away for fear that she would see her father. Remember she had not seen or heard of her father since she was eight years of age. On her return this time she was sent to her grandmother who was to bring her to me for treatment. The night before she was to be brought to me—she knew nothing about the intentions of her grandmother in this respect, thinking that she was to go on a long trip for a rest—she visited her mother, had a loving talk with her, and asked if she could wear her watch that evening, promising to return it in the morning. After she had disappeared her mother missed her diamond ear rings and rings. At the end of five weeks her mother received a letter from her from a distant point asking her to come to her as she had determined to be a good girl. As she was very ill her mother went to her. But she soon showed her criminal instincts again. Since she has been under my control she has been free from her quondam outbreaks, but has to be very carefully watched. She is industrious and a hard student of music, but I do not think it would be safe to let her go unwatched.

I have roughly given you the facts in this case so as to call your attention to several details. It is not my purpose to go into the discussion of the relation of female pelvic diseases and insanity; or as to the advisability of operative interference in this case. In this case we have the history of a father with criminal instincts distributed throughout his whole life. His daughter has a monthly morbid deviation from an original type. She has periodical attacks of monomania, *i. e.*, obsession, impulsion. As we have seen, these attacks cannot be solely attributed to a hysteria that sometimes accompany functional disturb-

ances in young women; as the recurrence of deceit, lying and immorality were shown long before puberty. Lupanar incidents were noticed at the age of eight years. There was no objective simulation, no morbid desire for sympathy or notoriety that exists among the purely hysterical young women. I believe that the criminal instincts in this young woman were inherited, if I may use this much abused term, that at a period where the unconscious life became the master of consciousness, when the highest nervous centers became subordinated to the lower, when judgment and will lost control over instincts and passion this young woman became a criminal in acts, but not in intention. Had the child been of the male sex I believe that he would have had similar outbreaks; the initiatory conditions being brought about by attacks of dipsomania.

A POPULAR MEDICAL ERROR TO BE CORRECTED BY THE PHYSICIAN.

BY E. P. BUFFET, M. D., JERSEY CITY, N. J.

There is one duty of the physician upon which the textbooks do not in general dilate. It is the duty which pertains to him as a medical adviser to correct popular fallacies and delusions pertaining to the field of medicine. Such errors of opinion become disclosed to him in the daily routine of his practice as they can be disclosed to no one else, for no one else has so favorable an opportunity for observation, and probably no one has a better opportunity than the physician to disabuse the public mind of such errors when they may be discovered. If, upon the whole, truth is better than error, then from philanthropic motives the physician should support truth and combat error wherever his superior knowledge gives him superior facilities and special opportunities for so doing. It may be that some of the popular fallacies have reference to the physician himself, his duties, responsibilities and capabilities. In some cases it may be to his apparent interest to allow them to remain, his revenue and perhaps his reputation appearing to be in a measure dependent upon their permanence, and in still others selfish motives may seem to demand their correction, but in all, truth, justice, humanity and the interests of a thorough popular education call upon the physician to make public many facts which he, and he only, has peculiar facilities for obtaining.

It will be the aim then of this paper to point out one of

the mistaken popular impressions and beliefs which the physician can and should correct.

The one which will be mentioned is the popular overestimate of the potency of drugs, simply, in the cure of disease, and of the ability of the physician by means of them to avert disaster and restore health. If such an overestimate exists, it may not always be a pleasant task, it is true, for the physician seemingly to discredit his own ability to accomplish that work to which he has devoted his life, but to many, and probably most persons, it would be a still greater task to enter consciously upon a life-long parade of a reputation not fairly earned.

It becomes then an important question for the medical man to decide, whether his ability to avert disease by the use of drugs, and whether the potency of the drugs themselves to effect this result are not generally over-estimated by the laity.

In answering this question an appeal will be made to the experience of the observing practitioner. Does his experience teach him that his success, which may be all that he or his patients expect or have a right to expect, depends upon the virtue of the dose he administers or upon some other influence, and does the dose, in his estimation, have anything like the efficiency in producing the desired result which the patient supposes? A vote of the profession upon this question, honestly given, would probably show an immense majority in favor of the negative. Does not the intelligent physician, the longer he remains in practice, the more thoroughly become convinced that the *vis medicatrix naturæ*, or some inherent agency or tendency to recovery, which he recognizes even if he does not fully understand, has effected the cure which the patient, on the contrary, ascribes to the *vis materiæ medicæ* and its skillful manipulation by the doctor? How often does a vig-

orous vital force surprise the physician by carrying the patient safely through a complication of ailments which to him seemed insurmountable, in which he knows full well that the medicine had little or nothing to do with the result, seeing as he does in his next case where vital energy is at a low ebb, the same medication of no avail! Does not the educated physician know full well that the dose he dispenses, however perfectly the purpose intended in its use be accomplished, is a non-essential adjuvant, nevertheless, in the recovery of his patient, and that the lists of mortality would not be materially swelled if he should ignore all so-called curative drugs, provided he should continue to use the same means to preserve vital energy and secure the observance of the rules of hygiene?

The doctor can easily discover causes which lead his patients to over-estimate the curative effects of his doses. Selfishness prompts them. They expect to be sick and they wish to believe that they can be cured. They knowingly indulge in violations of the laws of health, and they hope that the punishment for such violations can be averted. They wish to have faith in the skill of their physician and will pardon a great amount of assumption of wisdom and authority on his part. In health, it is true, they may harbor a suspicion that the doctor is something of a humbug, but when sickness comes the heretics are speedily converted, summon the doctor and swallow the nauseating eucharist with the alacrity the lifelong believers. Then it happens that

“When the devil gets sick the devil a monk will be.”

Although it is true, that

“When the devil gets well, the devil a monk is he.”

The doctor, too, very naturally accepts an over-estimate, rather than the reverse, of his skill, as fairly earned, and thus it happens that the selfishness of the patient and phy-

sician alike tends to produce an extravagant confidence in drugs and medication.

The doctor is made thoughtful when he observes the great variety of remedies for almost every disease, recommended in his text-books. He finds in his "National Dispensatory" a catalogue of about eighteen thousand preparations of drugs placed at his disposal with the use and nature of which his patients kindly presume him to be familiar. In the verdancy of early professional life he may be delighted with the variety of weapons placed in his hands, but as he grows older he learns to look with suspicion upon the lengthy list and is disconcerted when he finds great latitude of selection given to himself. He argues from the number at hand not the efficacy, but rather the inefficiency of them all. He is perplexed with the many changes taking place in his pharmacopœia. He finds the list of drugs swelling with great rapidity, and to keep pace with the presumed advance in medical science he must study the bulletins of new remedies somewhat as he consults the daily newspaper for the variation in stocks. Means and methods of practice which he once relied upon and which were in fact the only legitimate ones, less than a decade of years ago, he now uses with a secret misgiving lest some tyro in medical authorship may already have pronounced them antiquated.

The doctor is led to distrust the popular estimate of the value of medication as he observes the success of quackery in general, and how little is the difference in the apparent success of the skillful physician and the charlatan. If drugs are the important elements of success, then the greatest disparity should be seen in the results of those prescribed by the scientific doctor and the home-made quack. As great a difference should be noticable in the success in practice of the highly, and the moderately

educated physician as can be observed under similar conditions in the legal profession. Such, however, is not the case. The scientific physician can hardly fail to become recognized as such ultimately, but the fact will not be brought to light by the cures he accomplishes through the administration of drugs. The most impudent and presuming charlatan will often obtain that mark of popular favor, pecuniary success, which the scientist in medicine cannot always win. "Surely," argues the thoughtful physician, "if success in practice depends upon the skillful administration of drugs, and it should be so if drugs are the important element in the cure of disease, then superior education and, therefore, superior skill, should secure the larger patronage." But the most ignorant pill-maker will obtain testimonials from senators and divines vouching for the efficacy of his pill in ailments of great variety and diversity. The physician becomes especially skeptical when he collides with other systems of medical practice professedly antagonistic to his own, and apparently diverse, yet seemingly successful in the treatment of disease and supported by an enthusiastic clientage. The war which has been waged for many years in some of our large cities, of doses either infinitely too large or, "infinitesimally" too small erects two horns of a dilemma. Either both large and small are useful and effective in eradicating disease and prolonging life, or both are much more useless and ineffective than is popularly supposed. The latter alternative is the one very frequently accepted by the doubting medical scientist of this latter part of the nineteenth century.

The doctor's experience has taught him that the very mystery attached to the action of medicines in disease increases the probability that their curative effects may be over-estimated. The marvelous effects of certain poisons upon the human organism lead to the hope that in some

unknown way they may have power, as curative agents, equal to that which they are known to have as destructive, and that because they can kill they can also cure. It is a belief with a certain class that man is made to mourn over a long list of unavoidable diseases, the result of mere chance or fate, imposed as if by some evil demon, to punish a suffering race. His woes commence with the protrusion of the first infant tooth, then in childhood must follow in proper order mumps, measles, whooping cough, scarlet-fever and, if Jenner had never been born, the small-pox. If he survives these ills and their treatment, he can hardly claim manhood if he cannot rehearse some illness peculiar to adult life; and if no disease that can be dignified with a name assists old age in ushering him into a new existence, the death certificate is examined with some curiosity and, possibly, suspicion.

The idea has never been a popular one, that by a circum-spect walk and conversation man may avoid disease even as he does the county jail and whipping post, and that under some circumstances disease may be a crime. It is not generally understood that the normal condition of the human race is perfect health, that the human, as well as any other animal, was designed like the "wonderful one-hoss-shay," to run his allotted course without the need of repairs, until by the natural process and progress of decay and disintegration, he passes out of his present existence into the next, without commotion and almost without consciousness of the event.

Such then are some of the mistaken views of the patients which the doctor most easily discovers in the daily routine of practice. The patient is inclined to look upon disease as inevitable; the doctor, to believe that under a careful regimen it may be avoided. When it occurs, however, the patient believes it more under the control of medicine than

does the doctor. When a favorable termination is reached, the patient ascribes the result to the action of the drug which the doctor, on the contrary, ascribes to some other influence.

In the interest of truth, justice and humanity, it is the duty of the physician to correct these errors of his patients. In this way only can he save himself from the imputation of quackery, and expose quackery in others who willingly indulge in it. In this way too can he best secure the co-operation of the patient in his efforts to abolish disease and prolong life by more reliable methods. If he can convince the patient that the doctor must not be held responsible where now, unjustly, he sometimes is, he has accomplished something for himself. If he can bring into practice the old aphorism, "An ounce of prevention is worth a pound of cure," he has accomplished much for the patient. If he can so instruct his patients that they will accord to him the rank of teacher, rather than a dispenser of drugs, he will ennoble his calling. He may then proceed, in a new capacity, so to educate his patients that they may understand the laws of health, and will not violate them expecting to hold him responsible if the punishment for such violation is not averted. If he believes that in many cases where medicine is prescribed the patient will recover as well without it as with it, let him earn the gratitude of the invalid by convincing him of the fact, and thus elevate himself above the level of the quack, who can and does, in cases where medicine is uncalled for, prescribe as well as himself. In the comparatively few instances in which the issue of disease may depend upon a careful selection of remedies his own superior skill and knowledge in their selection will become more strikingly manifest.

PSYCHO-PHYSIOLOGICAL MECHANISM.

BY SOPHIA M'CLELLAND, VICE CHAIRMAN PSYCHOLOGICAL
SECTION.

Have we developed a new sense by which we are enabled to appreciate what is inappreciable by the grosser senses, and do we forsake the domain of science by saying so?

The histories of past ages are rehearsing their long-buried secrets. Old barriers are falling before the triumphant march of science. Old milestones and danger-signals are being swept away. And yet man, the seeker, the unresting, would know more. He would pierce the film which wavers between him and the Great Unknown, the misty veil so thin and sheer which rises from the Sea of Eternity, that the quickened imagination can hear the shadowy voices call, and descry forms that seem to pass and re-pass and wave their hands, until we ask ourselves, are we related to the whole system of the universe in any other way than physically?

Persons who think these questions can be answered are on the increase, and are no longer subject to sneers and laughter. If psychological societies do not accomplish much, it is from the lack of trained investigation; it is not for us to see what will come of it all.

The highest success in all pursuits is attained when we approach the most spiritual condition, that condition in which our own spiritual energies seem emancipated from the obstructions of matter, and we rise, as it were, to a

plane where we become conscious of a higher nature in sympathy with our own.

The surroundings of man have not been such as to promote the unfoldment of his spiritual nature. Human existence has been a series of struggles against evil tendencies, errors, anomalies, and deviations; and though imperfect, there is within us a spark of divinity which can be cultured in nearness to the Infinite. This spiritual part in man, which renders him a subject of moral government, a rational power in distinction from the mind, is indestructible, and survives all the changes and dissolution of the physical body.

This certain determinate form of sensitive, intellectual and voluntary activity, which for reasons of clearness, we will call the soul inherits from its parents, after the general law of heredity, all the characteristics of the organisms which they produce, a complete record of the whole anatomy of the parents, and, not only that, but family variations and peculiarities of its whole line of ancestry, a complete existing record of two different organisms back to the origin of life.

Though people find the idea of generation as applied to the soul unintelligible, experience shows mental development to be always and everywhere subject to organic conditions, while it does not show the converse to be true, in a general way. We believe it is still a question with physiologists whether the brain should be considered as a psychological organ, if the point of importance is its chemical constitution, the number of its convolutions, or its form, or weight, —probably each of these conditions possesses a special importance of its own; though we believe it is admitted that an adult human brain weighing less than two pounds borders on idiocy.

There is a growing desire to turn the experimenting of

science in the direction of psychology, and the study of the hereditary feature of biology, the transmission of parental and ancestral characters to each new generation of organic beings. The object is to find out the secret of reproduction, and the type of life which is the agent of reproduction as a force, and the method of its action. We cannot explain the phenomena to any further extent than to verify the law that like produces like. Prof. Weissmann's theory explains what no doctrine of heredity has hitherto accounted for,—how a single microscopic cell can reproduce parental characteristics and even characteristics of grandparents or remote ancestors, by "continuity of the germ plasm," by means of natural not acquired selection, that a child resembles his parents, not because he acquires by transmission these characteristics, but because he, as well as they, arose out of the same germ plasm.

It is even a far broader law, a law of the universe, and its cause is to be sought for in universal mechanism.

There has been some scepticism on the question bearing on the possible interchange of forces between the body and the germ-cells. This refers to the influence of maternal impressions and the inheritance of mutilations. It is a well-established physiological fact that when mothers are strongly aroused by any powerful emotion or sentiment, prior to the birth of a child, the offspring is liable to be affected in a marked manner, either physically, mentally, or morally.

Mrs. Fletcher's case, which came under our observation, will serve as a peculiar illustration of this law. Previous to the child's birth, the mother refused to speak to her husband for several weeks, owing to a quarrel. She was greatly opposed to bearing a child, and she felt deep resentment against her husband, as the author of her condition. This was the cause of the domestic disturbance. When the

boy began to talk, it was noticed that he never spoke to his father. Punishment failed to elicit a word, not even a cry from him. All during his childhood, though on friendly terms with his father, he would never remain alone with him, and even after he was grown he found it impossible to address him. He said he always felt that he was never wanted. Though every effort was made by the family to dispossess the idea, yet he would never remain at home; he was always a wanderer.

In a recent paper read before a leading society of physicians of London, Sir Arthur Mitchell, Commissioner on Lunacy for Scotland, shows that strong mental emotions awakened in mothers affect in a terrible manner the unborn, resulting in idiocy and imbecility, in over four hundred cases which he examined. Similar results were noted after the French Revolution, as well as in numerous instances of more recent date. The deplorable consequences of our own civil war are daily made apparent by the present increase in crime. It is written that evil shall produce evil; and the one who has committed a first crime is condemned by that fact to commit a second.

Philosophers may deny the free exercise of the will, and may impute mental disease as is the outcome of our active and personal volition, but what determines all in this life of ours is the heredity of deeds that are done.

There is a broad dividing line between virtue and vice. No one ever ceases to be honest in a single day. Good and evil are always of contemporary growth; we are not all good nor all evil. If appeal to the spiritual side of our natures has failed to maintain an influence in the contest, it does not show that this result is on account of the growth of evil, but that inherent good is a means of growth, and inherent evil a cause of decay. This is the effect, the overgrowth of evil the cause.

The opponents of heredity say facts prove that neither genius nor talent nor rectitude are hereditary. They might have added, as we have seen, that it is proved by facts that even among the most highly gifted races, heredity tends to enfeeblement, and that in the struggle for life and battling with its difficulties, it crumbles away in its course.

Deviations tend to disappear, and after a few generations the reversion to the primitive type is complete. "Reversion," says Ribot, "to the physical or mental type is the result of natural laws, and by no means of a mysterious power or occult influence."

Psychology learns from natural scientists that it is difficult to determine the characteristics of individuality, even of those creatures that are far less complex than human persons. The millions of human beings who make up a nation are reduced to a few thousand who represent its social activity, its industry, its politics, and its intellectual culture. Degeneracy—"always inherent in that which rises"—will again lower their race and themselves, while the ignored millions will continue to produce other ones and to impress upon them a distinctive character.

Observation shows us that irrespective of characters that are perfectly concordant, which in a rigorous sense of the word do not exist, there are in every one of us all sorts of tendencies, all possible contradictions, and all kinds of intermediate shades among these tendencies, united with every possible combination.

When Carlyle wrote that nine-tenths of the world were fools, he was much nearer the truth than most men think. We have every reason to believe that among civilized races, there is a vast amount of latent insanity, so that even a breath of wind would be sufficient to destroy the mental equipoise, the normal standard of which is only securely

kept by the powerful aid of the will, supported by extraneous influences, fear of punishment and fear of ridicule.

There hardly lives one who does not possess some eccentricity, or cherish some delusion within himself which he is ashamed to acknowledge. We once had a friend of apparently philosophic and imperturbable nature who confessed to an irresistible impulse to laugh on the most solemn occasions, would not dare to trust himself to attend a funeral for fear of this overmastering desire to laugh out. Another, my room-mate at college, never committed an impulsive act in her life, yet when she saw one at table bring a cup of hot coffee to their lips, she was almost overcome by the desire to dash it from them. Eccentricity is certainly not insanity, but there is no question that it may approach or actually pass into that state.

Discordant marriage is the foundation from which issues an ever-flowing fountain of debased humanity. A large portion of the human race are quite unworthy of matrimonial union and perpetuation of their own moral or physical deformities. The heredity of biological characteristics is generally influenced by the position of the progenitors. The stronger of them attracts the resemblance to his side. The healthy factor is in the better condition to prevail. But it has been found, whether from the rarity of absolutely healthy elements, or for some other reasons, that in crossing, the good are more likely to lose than the bad to improve.

There are certain affections and conditions that are likely to develop offspring of an unstable brain, and should be of sufficient cause for the prohibition of marriage between parties affected. The union of certain temperaments of which the combinations of breeding produce molecular arrangement changes at the moment of cellular construction—physiological causes, producing the susceptibility to cer-

tain forms of disease rather than the direct inheritance of the basis from which disease is developed. Or may it not be partly chemical, a lack of affinity, or a chemical incompatibility in the combination?

Thus, the union of an inebriate with one perhaps of only a simple neuropathic tendency is liable to produce children subject to epilepsy, dipsomania, drunkenness, and criminal insanity. Phthisis (consumption) on one side of the parents, with eccentricity or a slight taint of insanity in the other, has been found in families interchangeable with a high order of genius. We have a number of cases with this record, the most notable as witnessed in the history of Lord Byron and the Bronte families. Dr. Morel gives the case of a degenerate who changes his impulses one into the other, in turn suicide, homicide, sexual excesses, alcoholism, and incendiary attempts. A curious fact which Dr. Morel points out is that from some cause the epileptic is more apt to be a thief, the imbecile an incendiary. The reason for these diversities must be found in the mental and physical constitution. To us the curious point at issue is to know why this degeneracy should assume this particular form and not some other. Dr. Demm mentions that "bad heredity and long-acting malign influences, where there are serious sins against the sexual nature, vices producing maladies found only in connection with civilization, they in turn necessitate abnormal development,—'degeneration.'"

In consequence of these inherited tendencies, our children are subject to a premature development; they are sensuous, super-smart, unduly progressive; bodily, mental, and spiritual effectiveness is lessened; in the course of generations, stature is diminished, muscular power vanishes, moral sense is blunted, and life is shortened.

In man birth finds some parts of the nervous system in

full development. It is therefore easily understood that disorders of the nervous system due to morbid heredity are influenced without external morbid aberrations, and are entirely due to evolutionary troubles of the nervous system.

While disorders of development are produced near the beginning of the evolution, and are fixed long before the structures of the organs has reached perfection.

It is beginning to be understood that only a most imperfect result can be obtained from any system that runs the machinery of life in defiance of nature's inviolable and most sacred of all laws, the law of masculine and feminine coöperation. The inharmonious, unbalanced, cruel, and even dangerous social conditions of the age, indeed of all past ages, are owing primarily, it might almost be said exclusively, to the repression of one half of humanity's energies so absolutely essential to the ripening of any effort into harmonious and complete achievement. Man, wielding absolute authority through physical strength, has blindly endeavored to weaken and impair the feminine half of humanity by suppressing the spiritual principle of being, which is necessary to the adjustment of symmetrical growth in the highest spiritual and material development. This is in accordance with the basic law of nature. As well try to generate electric life with only the positive or the negative current as to operate social life by masculine power alone.

Psychology, like every other science, must submit to an ignorance concerning a number of points, and we need not be afraid to admit it. It is metaphysics which pretends to explain everything. But it is a belief of a large part of the more intelligent that we are on the dawn of an age that will be fertile with discoveries and marvels of a psychical sort. It has been discovered that in the complex arrangement of structure which is found in the organism of

man, the unity and correlation of functions, whether physiological, intellectual, or emotional, has its special apparatus in the nervous structure of the brain. It has also been demonstrated by a distinguished philosopher and scientist of this century.*

"Every function and organ of the brain has a corporal correspondence or region of the body, with which it is in close sympathy. And as it determines for every portion of the surface of the body the exact physiological and psychic influence which belongs to it, which enables us to understand why every disease has certain mental symptoms, and why each emotion has a special influence on the body favorable or unfavorable to certain diseases.

"It has been demonstrated by investigation of the nervous system of man that there is a vast aggregate of powers existing, which constitute the vitality of his organism, in intimate connection with the wonderful powers of his mind. A dual mental organism, comprising two classes of faculties, each complete in itself."

We find one class of faculties to be perishable, imperfect, and yet well adapted to a physical existence and a material environment and capable of development by the processes of evolution to a high degree of excellence; morally, physically and mentally.

On the other hand we find in man another set of faculties, each perfect in itself and complete, every attribute and power necessary to constitute a complete personality—being present to perfection. And yet we find these faculties perform no normal function in physical life.

Through experiments on the human brain, by hypnotism, and experimental surgery, we find that there is no faculty, emotion, or organ of the human mind, that has not its use, function or object. No one who is at all familiar with the results of modern scientific research in the field of psychic phenomena, will gainsay this assertion. The one faculty of telepathy alone, to say nothing of that of intuitive perception, demonstrates the soundness of that proposition. It may be recognized as a law of the nervous

* Prof. Joseph Rodas Buchanan in "Buchanan's Psychiatry."

system, that it is capable of being affected by the subtle influences which emanate from adjacent objects. Persons of impressionable sensibility are distinctly affected by contact with living beings, and from the influence proceeding from the living nervous action. There are many persons whose sensations of the external senses are so acute that they can detect, by placing metals of different kinds in their hands, a peculiar influence, recognize any peculiar taste, by an impression upon their own sensitive nerves. I have known persons who by accident, in the night, touched a piece of brass or copper, could tell immediately, by recognizing the offensive metallic taste in their mouths. This peculiar influence was not confined only to metallic substances, but to any substance possessing any decided taste,—sugar, salt, pepper, aloes, were experimented with, and each named by those upon whom the experiment was performed. The peculiarities of taste of the substances were recognized as if the substance, instead of being held in the hands, had been, in small quantities, introduced into the mouth. These subjects were not under hypnotic suggestion, nor were they somnambule patients prepared for the process, but were of individuals casually selected from an audience of culture and refinement.

It has also been verified by experiment that there are persons of so impressible constitution that, simply by placing their hand in contact with the heads or bodies of other persons, concentrating their attention for a few minutes upon the experiment, a decided effect is experienced. If the person experimented upon is laboring under any disease or morbid influence, an impression will be experienced corresponding to the case. I have known physicians who felt these morbid influences when coming in contact with their patients, so much so as to be seriously affected.

Our knowledge of the laws of contagion would teach us

to protect the sensitive and delicate from all morbid exposure. There is a gradation of sensibility in different constitutions that should teach us there may be individuals upon whom all diseases exert a contagious influence, which may be transmitted by any substance which has been in contact with diseases of even a mild type.

All association has a contagious power even in a state of health, where there are no morbid influences in the case. Those who have a high degree of sensibility receive impressions of an autograph or letter, tracing the character of the writer as a medical man can trace the character and tendency of a remedy. If you have not learned that such things are possible, let me request that you make the experiment. Select a letter from an individual laboring from disease or great pain at the time of writing; or of one intensely aroused by some great emotion or passion. Have the subject of the experiment hold the letter in his hand, or better still, have him hold it in contact with his forehead, and watch closely the mental impressions while thus in contact, and see if he will not sympathize with the physical suffering of the writer; and not only that, but he will be able to enter into a full analysis of his feelings, his essential personal character, and the relations of the individual to those around him, and his entire social position.

We remember some years ago, while in company with a party of friends whom we were entertaining with psychometric experiments for their amusement, there was a young lady present who was a great sceptic, and very reluctant to believe in the verity of the impressions. She was induced by a gentleman present, who had come prepared with autograph letters, to try if she did not herself possess the psychometric capacity. He took from his pocket four letters, written by individuals of strongly marked and peculiar characters. These he distributed to different members

of the company, selecting a special one for this young lady. While the tests were being made, his conjecture was soon verified. The company keeping silent, awaiting the mental suggestions from the contact of the letters. We were all startled by a sharp cry from the young lady, who showed the greatest excitement of manner, stood up, stamped her foot on the floor, and, throwing the letter from her, called out passionately, "I cannot, I will not, I shall not!" and, violently trembling with suppressed anger. The gentleman who was making the experiment* immediately came forward, and tried to calm her agitation. When, after a few moments, he asked what were the impressions she had received from the letter, she replied that she never before in her life had such emotions of anger and intense hate; that in about ten minutes after she held the letter to her forehead she felt such resentment that she thought she could have killed somebody if she had not thrown down the letter. It was some time before she became thoroughly calm, and she refused to continue the experiment that evening. The gentleman referred to informed the company that the letter was a challenge for a duel, and was written to a man who had deeply wronged the writer.

The sketches of character have often been so striking that the audience could recognize the individual from the description of the sketch applied to some well-known personal. Frequently it happens that the first impression of a letter will be vague and incorrect, the mind not being in the right mood, or not able to sympathize with it, not having a sufficient amount of experience to be familiar with the various impressions or to decide positively between the suggestion of association and the influence of exterior impressions.

The mental influence is more thoroughly imparted in

* Dr. Lemuel Caldwell, son of Prof. Charles Caldwell, M. D.

the act of writing, in which the mind is more vigorously engaged. Generally the opinion is formed in a gradual manner, from a careful study or survey of its different relations. Frequently, though, the writer will appear before the mind's eye of the experimenter, illustrating some special trait in his nature or characteristic act which he has done, or some scene in his life. Suffice it to say that any highly impressible individual may recognize, in any piece of writing, the entire mental character.

Whether these influences proceed directly from the mental organs to the paper, or are transmitted by the arm and conducted by the pen, I cannot say; but the impression is distinctly felt in the brain, but seems first to pass up the arm, and reaches the brain, where it affects the mental organs, and gives the impression of the character. That some mysterious substance is attached to the writing is proved by the experiment; and we cannot devise any method of influence which may not be followed and detected by the exalted powers of sensitives.

This subject is so vast, so profound in its bearings, that we cannot present in a short essay a full consideration of the subject. All we have hoped by our efforts is to induce an interest for your further consideration. "But we should bear in mind that all the coöperations and correlations of mind and matter are intrinsically wonderful, but are governed by definite laws when discovered, no less mysterious than the nature of mind itself. But he who brings to this subject the material spirit of chemistry and mechanical philosophy will find himself unable to perceive the phenomena or to detect their cause."*

* Prof. J. Rodes Buchanan's Psychometry.

SUICIDE CONSIDERED AS A MENTAL EPI- DEMIC.

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OF MENTAL MEDICINE.

The question of suicide is one which for some time has occupied public attention. During the present year, in consequence of the alarming increase of suicide, I have decided to choose this subject for our consideration, hoping that perhaps what I shall place before the Congress may prove of interest to its members and draw their serious attention to a grave question.

All human actions are under the influence and power of example more than precept, and consequently self-destruction has often been justified by an appeal to the laws and customs of past ages. An undue reverence for the authority of antiquity induces us to rely more upon what has been said or done in former times than upon the dictates of our own feelings and judgment. Many a mistaken individual has formed the most extravagant notions of honor, liberty, and courage, and, under the impression that he was imitating the example of some ancient hero, has sacrificed his life. He may possibly urge in his defense that suicide has been enjoined by positive laws and allowed by ancient custom ; that the greatest and bravest nation in the world practiced it, and that the most wise and virtuous sects of philosophers taught that it was an evidence of courage, magnanimity, and virtue. The force of example

is one which appeals to the mind of certain individuals, but is in itself based solely on a fallacy.

No inferences deduced from the consideration of the suicides of antiquity apply nowadays, as we live under a Christian dispensation. Our notions of honor, of death, and of courage are in many respects so dissimilar from those which the ancients entertained that the subject of suicide is placed entirely on a different basis. History is replete with examples of moral and criminal epidemics during the past centuries. The force of example and imitation is very great among a certain class of our humanity.

The fourth century is remarkable for the rapid increase and spread of superstition, the reinstitution of image worship, the adoration paid to relics, and the many pious frauds of the so-called monks; the fifth century for the epidemic of climbing to the top of heights and there remaining. Simon, a monk, adopted as a mark of sanctity the singular device of spending thirty-seven years of his life on the top of a high pillar. Led by a false adoration and utterly ignorant of true religion, the inhabitants of Syria and Palestine followed the example of this fanatic, and what is more incredible, this practice continued in vogue until the twelfth century. The rise and spread of Mohammedanism in the seventh century is one of the most remarkable instances of the rapid propagation of ideas and principles.

In the tenth century a very strange fancy seized upon men's minds. They imagined that the end of the world was close at hand, and multitudes forsook their daily vocation, both civil and domestic, and gave their property to the Church, and repaired to Palestine, where they imagined that when the end did come they would be in greater safety. An eclipse of the moon or of the sun was considered as the immediate precursor of the end of all

things, and many tried to bribe the Deity by great gifts to the Church. In a word, no language is sufficient to express the confusion and despair which tormented the minds of miserable mortals on this occasion. Consequent upon this we have, perhaps, the most extraordinary epidemic for which fanaticism ever is responsible, for vast multitudes left for the Holy Land, and not a meteor fell across the skies but sent whole hordes on the same delusive errand. Scarcely had this excitement departed when the plague, or Black Death, of the fourteenth century set in, which appeared in 1333, in China, and passing over Asia westward, and over Europe and Africa, carried off about one-fourth of the population. In Europe it is supposed that 25,000,000 fell victims to this dire pestilence. All epidemic diseases have their moral aspect, and this one was attended by a constellation of fanaticisms and delusions such as man had never witnessed before or since. The specific moral aberrations connected with this period were:

1. The rise and spread of the flagellants or whippers.
2. The wholesale murder of the Jews on the suspicion of having poisoned the water.
3. The dancing mania.

In Mayence alone, 1,200 Jews were slaughtered by the flagellants, and with this epidemic was associated witchcraft which then existed and was gradually increasing. The dancing mania in 1374 consisted in persons joining hands and jumping about frantically for hours together, and falling down ultimately in a state of exhaustion. This epidemic was tried during this century in the form of the "Shakers" in the New Forests, but so far as my recollection goes, the best antidote to the revived nonsense was the police court of the district, which evidently had the desired effect.

In the sixteenth century demonomania existed largely,

a belief that they were possessed by the devil, and many were burned at the stake in consequence. Our present century has been full of epidemics of one sort or another. I will just name, *en passant* spiritualism. There are three kinds of individuals who believe in this, but, not desiring on this occasion to begin a controversy on the subject, I will not refer to them.

Incendiarism, infanticide, kleptomania, homicide, and suicide have all during this century been epidemic at one time or another, the force of imitation being so great and acting prejudicially on weak-minded persons or on those pre-disposed to mental disorders. In the time of the Ptolemies a stoic philosopher preached so earnestly and eloquently on the contempt of life and the blessings of death that suicides became frequent. The ladies of Miletus committed suicide in great numbers because their husbands and brothers were detained at the wars. At Lyons there was an epidemic of drowning among the women. No cause could be assigned for this. It was ultimately checked by the order of the authorities that the bodies of all who drowned themselves should be publicly exposed in the market place. The epidemic was stopped at Miletus by a similar device.

An order was made that the bodies of those who hanged themselves should be dragged through the town by the same rope with which they had accomplished their purpose. At Rouen, in 1800, at Stuttgart, in 1811, and at the Valois, in 1813, there are histories of suicide as a powerful epidemic. In 1844 there was an epidemic of voluntary mutilation in the French army, numbers of soldiers being self-mutilated and for no reason. Suicide from poison has often occurred epidemically.

Having thus shown that suicide has, during various ages, been connected with an epidemic, I would draw the

attention of this body to the fact of the recent epidemic which has taken place during the present year, especially during the Spring of the year, the alarming character of which is my excuse for drawing your attention to the question of suicide to-day. Speaking generally, the reason for this epidemic appears to me to be as follows:

1. The great publicity given by the press in publishing details of crime and trials, thus reacting perniciously in the minds of weak-minded persons.

2. Insufficient power of the Legislature in suppressing such publicity.

3. The liability to act epidemically in the same way as I have previously mentioned in past ages.

To the medical philosopher nothing can be more deeply interesting than to trace the reciprocity of action existing between different mental conditions and affections of particular organs. Thus the passion of fear, when excited, has a sensible influence on the action of the heart; and when the disease of this organ takes place independently of any mental agitation, the passion of fear is powerfully roused. Anger affects the liver and frequently gives rise to an attack of jaundice: and in hepatic and intestinal disease, how irritable the temper is!

Hope, or the anticipation of pleasure, affects the respiration; and how often do we see patients in the last stage of pulmonary disease entertaining sanguine expectations of recovery to the very last!

As the passions exercise so despotic a tyranny over the physical economy, it is natural to expect that the crime of suicide should often be traced to the influence of mental causes. In many cases it is difficult to discover whether the brain, the seat of the passions, is primarily or secondarily affected. Often the cause of irritation is situated at some distance from the cerebral organ; but when the foun-

tain head of the nervous system becomes deranged, it will react on the bodily functions, and produce serious diseases long after the original cause of excitement is removed.

It is not our intention to attempt to explain the *modus operandi* of mental causes in the production of suicidal disposition. That such effects result from an undue excitement of the mind cannot for one moment be questioned. Independently of mental perturbation giving rise to maniacal suicide, there are certain conditions of mind, dependent upon acquired hereditary disposition, or arising from a defective expansion of the intellectual faculties, which originate the desire for self-destruction.

Some idea of the influence of certain mental states on the body will be obtained by an examination of the various tables which have been published, in this and other countries, respecting the causes of suicide, so far as they could be ascertained, The table for London is as follows:

INDICATION OF CAUSES.	MEN.	WOMEN.
Poverty.....	905	511
Domestic grief.....	728	524
Reverse of fortune.....	322	283
Drunkenness and misconduct.....	287	208
Gambling.....	155	141
Dishonor and calumny.....	125	95
Grief from love.....	97	157
Disappointed ambition.....	122	410
Wounded self-love.....	53	53
Envy and jealousy.....	94	53
Remorse.....	49	37
Fanaticism.....	16	1
Misanthropy.....	3	3
Causes unknown.....	1,381	377
Total.....	4,337	2,853

According to a table formed by Fálret of the suicides which took place between 1794 and 1823, the following results appear: Of 6,782 cases, 254 were from disappointed love, and of this number 157 were women; 92 were from jealousy, 125 from being calumniated, 49 from a desire without the means of vindicating their characters, 122 from disappointed ambition, 322 from reverses of fortune,

16 from wounded vanity, 155 from gambling, 288 from crime and remorse, 723 from domestic distress, 905 from poverty, 16 from fanaticism.

In considering the influence of mental causes, we shall, in the first instance, point the effects of certain passions and dispositions of the individual on the body; then investigate the operation of education, irreligion, and certain unhealthy conditions of the mind which predisposes the individual to derangement and suicide.

There is no passion of the mind which so readily drives a person to suicide as remorse. In these cases there is generally a shipwreck of all hope. To live is horror; the infuriated sufferer feels himself an outcast from God and man; and, though his judgment may still be correct upon other subjects, it is completely overpowered upon that of his actual distress, and all he thinks of and aims at is to withdraw as much as possible from the present state of torture, totally regardless of the future.

In England the great majority of the cases of insanity among women in our establishments devoted to the reception of the insane, can clearly be traced to unrequited and disappointed affection. This is not to be wondered at if we consider the present artificial state of society. We make "merchandise of love;" both men and women are estimated not by their mental endowments, not by their moral worth, not by their capacity of making the domestic fireside happy, but by the length of their respective purses. Instead of seeking for a heart, we look for a dowry. Money is preferred to intellect; pure and unadulterated affection dwindles into nothingness when placed in the scale with titles and worldly honors.

Few passions tend more to distract and unsettle the mind than that of jealousy. Insanity and suicide often owe their origin to this feeling. One of the most terrific pict-

ures of the dire effects of this "green-eyed monster" on the mind is delineated in the character of Othello. In the Moor of Venice we witness a fearful struggle between fond and passionate love and this corroding mental emotion. Worked upon by the villainous artifices of Iago, Othello is led to doubt the constancy of Desdemona's affection. The very doubt urges him almost to the brink of madness; but when he feels assured of her guilt and sees the gulf into which he has been hurled, and the utter hopelessness of his condition, he abandons himself to despair.

The great increase of the crime of suicide has been referred by many able physicians of the present day to the political excitement to which the minds of the people have been exposed of late years. In despotic countries suicide and insanity are seldom heard of. The passions are checked by the nature of the government, the imagination is not elevated to an unhealthy standard, every man is compelled to follow the calling in life to which he was born and for which he had capacity, and on this account the evil and corrupt dispositions of the mind are to a certain extent kept in abeyance. In republican governments the greatest latitude is allowed to the turbulent passions; all mankind are theoretically placed on an equality, the man whose "talk is of bullocks" considers himself as fit to carry on the complicated business of government as he whose education, associations and experience tend to qualify him for the duties of a legislator.

In proportion as men are exposed to the influence of causes which excite the passions, so will they become predisposed to mental derangement in all its forms. The French and American Revolutions increased considerably the crime of suicide. It has been said that during the Reign of Terror statistical evidence does not show that self-murder was more common than at any other period.

Perhaps the alleged infrequency of suicide may be attributed to the circumstance of the French people having been so busy killing others that they had no time to think of killing themselves.

More than the average number of suicides may not have really occurred during the crisis of the Revolution, but it is an undisputed fact that before and after that political convulsion self-destruction prevailed to an alarming extent. Disappointed hopes, wounded pride and vanity, blighted ambition, loss of property, death of friends, disgust of life, all came into active operation after the turbulence and bloodshed of the Revolution had somewhat subsided. These passions worked upon minds easily excited, and not under the benign influence of religion, it is almost natural to expect that great recklessness of life should be exhibited. Such facts demonstrate to us the folly of uselessly exciting the passions of the people, and raising in their minds exaggerated expectations from political changes.

There is no more frequent cause of suicide than visceral derangement, leading to melancholia and hypochondriasis. It has been a matter of dispute with medical men whether hypochondriacal affections have their origin in the mental or physical portion of the economy. Many maintain that the mind is the seat of the disease, others that the liver and stomach are primarily affected, and the brain only secondarily. In this disputed point, as in most others, truth will generally be found to lie between the two extremities. That cases of hypochondria and melancholia can clearly be traced to purely mental irritation cannot for one moment be disputed, and that there are many instances in which the derangement appears to have commenced in one of the gastric organs is equally self-evident. Whatever may be the origin of these affections, there can be no doubt of their producing the most disastrous consequences.

[*To be continued.*]

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[*Continued from June Journal*]

With reference to suicide, there is no fact that has been more clearly established than that of its hereditary character. Of all diseases to which the various organs are subject there are none more naturally transmitted from one generation to another than affections of the brain. It is not necessary that the disposition to suicide should manifest itself in every generation. It often passes over one and appears in the next, like insanity unattended with this propensity. But if the members of the family so predisposed are carefully examined, it will be found that the various shades and graduations of the malady will be easily perceptible. Some are distinguished for their flightiness of manner, others for their strange eccentricity, likings, and dislikings, irregularity of their passions, capricious, and excitable temperament, hypochondriasis, and melancholia. These are often but the minute shades and variations of a hereditary disposition to suicidal madness.

A gentleman suddenly, and without any apparent reason, cut his throat. The father had always been a man of strong passions, easily roused, and when so was extremely violent. The brother was a man of impulse; he always acted by fits and starts, and therefore never could be depended upon. The sister had a strange, unnatural, and

superstitious horror of particular colors and odors. A yellow dress caused a feeling approaching to syncope, and the smell of hay produced great nervous excitement. The grandfather had been convicted of homicide, and had been confined for two years in a madhouse. Andral relates the case of a father who died from the effects of disease of the brain; the mother died sane. They had six children, three boys and three girls. Of the boys, the oldest was a man of original mind; the second was very extravagant in his habits, and was ultimately confined in a madhouse; the third was extremely violent in his temper. Of the girls, one had fits of apoplexy; one became insane; the third died of cholera, not, however, until she exhibited indications of mental aberration.

A case more singular than the last is recorded. All the members of a particular family being hereditarily disposed, exhibited, when they arrived at a certain age, a desire to commit self-destruction. It required no exciting cause to develop the fatal disposition. No wish was expressed nor attempt made to overpower the suicidal inclination, and the greatest industry and ingenuity were exercised by the parties to effect their purpose. In two cases the propensity was subdued by proper medical and moral treatment, but, just in proportion to its being suppressed did the idea of suicide appear to fix itself resolutely in the mind. The desire came upon the individual like the attacks of intermittent fever.

A. K., a man aged fifty-seven, was twice married. He was a shoemaker by trade, but, not having received any education, his wife was compelled to keep all his accounts. He had experienced, when young, a blow on the head, which occasionally gave him pain. He became very intemperate in his habits, and at particular intervals he exhibited an uncontrollable temper, quarreled with every-

body, neglected his business, abused his wife, and became extravagant and melancholy. During the paroxysm he would exclaim: "Oh, my unlucky head. I am again a lost man!" When the attack subsided he returned to his business, was affectionate to his wife and family, most humbly begged for her pardon for having ill-treated her, and expressed the greatest contrition for his conduct. These attacks came at regular intervals. He procured a piece of rope for the purpose of hanging himself, and for some months carried it about with him in his pocket for that purpose. During one of his fits he effected his object. His grandfather had strangled himself, and his brother and sister had attempted suicide.

A common cause of suicide is a feeling of false pride. Owing to the ridiculously false views which are taken of worldly honors, the idea which a sickly sentimentality infuses into the mind, this feeling is engendered, to an alarming extent, through the different ranks of society. This constitutes one great element which is undermining and disorganizing our social condition. A fictitious value is affixed to wealth and position in the world; it is estimated for itself alone, all other considerations being placed out of view.

We cannot conceive how this evil is to be obviated, unless it be possible to revolutionize the ideas which are generally attached to fame and worldly grandeur. It is difficult to persuade such persons that the end of fame is merely

"To have, when the original is dust,

A name, a wretched picture, and worse—bust."

There is a nameless, undefinable something, that the world is taught to sigh after, is always in search of, a moral *ignis fatuus*, which is dazzling to lead it from the road which points to true and unsophisticated happiness.

Among the causes which operate in producing the dis-

position to commit suicide, we must not omit to mention those connected with erroneous religious notions. M. Falret justly remarks that the religious systems of the Druids, Odin, and Mahommed, by inspiring a contempt for death, have made many suicides. The man who believes that death is an eternal sleep scorns to hold up against calamity, and prefers annihilation. The skeptic also often frees himself by self-destruction from the agony of doubting. The maxim of the Stoics, that the man should live only so long as he ought, not so long as he is able, is, we may observe, the very parent of suicide.

The Brahmin, looking on death as the very entrance into life, and thinking a natural death dishonorable, is eager at all times to get rid of life. The Epicureans and Paripatetics ridiculed suicide as being death caused by fear of death.

M. Falret, however, goes perhaps too far when he asserts that the noble manner in which the gladiators died in public not only familiarized the Romans with death, but rendered the thoughts of it rather agreeable than otherwise.

Misinterpretations of passages of Scripture will sometimes lead those who are piously inclined to commit suicide. M. Gillot hung himself at the age of seventy-five, having left in his own handwriting the following apology: "Jesus Christ has said that when a tree is old and can no longer bear fruit it is good that it should be destroyed." (He had more than once attempted his life before the fatal act.) Dr. Burrows attended a nobleman who, for fear of being poisoned, though he pretended it was in imitation of our Savior's fast, took nothing but strawberries and water for three weeks, and these in very moderate quantities. He never voluntarily abandoned his resolution. He was at length compelled to take some nutriment, but not until inanition had gone too far; and he died completely atten-

nated. When sound religious principles produce a struggle in the mind which is beginning to aberrate the contest generally ends in suicide.

Among the causes of suicide the foggy climate of England has been brought prominently forward. The spacious and inaccurate conclusions of Montesquieu on this point have mislead the public mind. The climate of Holland is much more gloomy than that of England, and yet in that country suicide is by no means common. From the following tabular statement we see that the popular notion of the month of November being the "suicide month" is founded on erroneous data. The average number of suicides in each month for years may be taken as follows:

January	213	July	301
February	218	August	296
March	275	September	246
April	374	October	198
May	328	November	131
June	336	December	127
Total		3,133	

It has been clearly established that in all the European capitals, when anything approaching to correct statistical evidence can be procured, the maximum of suicide is in the months of June and July, the minimum in October and November. Temperature appears to exercise a much more decided influence than the circumstances of moisture and dryness, storms, or serenity.

M. Villeneuve has observed a warm, humid, and cloudy atmosphere to produce a marked bad effect at Paris, and that so long as the barometer indicated stormy weather this effect continued. Contrary, however, to the opinion of Villeneuve, it appears that by far the fewer number of suicides occur in the Autumn and Winter at Paris than in the Spring and Summer.

When the thermometer of Fahrenheit ranges from 80°

to 90°, suicide is most prevalent. The English have been accused of being the beau-ideal of suicide people. The charge is almost too ridiculous to merit serious refutation. Suicide is not an offense that can be deemed cognizable by the civil magistrate. It is to be considered a sinful and vicious action. To punish suicide as a crime is to commit a solecism in legislation. The unfortunate individual by the very act of suicide places himself beyond the vengeance of the law. He has anticipated its operation. He has rendered himself amenable to the highest tribunal, namely, that of his creator. No penal enactments, however stringent, can affect him. What is the operation of the law under these circumstances? A verdict of *felo de se* is returned, and the innocent relatives of the suicide are disgraced and branded with infamy, and that, too, on evidence of an *ex parte* nature. It is unjust, inhuman, unnatural, and unchristian that the law should punish the innocent family of the man who in a moment of frenzy terminates his own miserable existence. It was clearly established before the alteration of the law respecting suicide, the fear of being buried in a cross-road and having a stake driven through the body, had no beneficial effect in decreasing the number of suicides, and the verdict of *felo de se* now occasionally returned is productive of no advantage whatever, and only injures the surviving relatives.

If the view which we have taken of the cause of suicide be a correct one, no stronger argument can be urged for the impropriety of bringing the strong arm of the law to bear upon those who court a voluntary death. In the majority of cases it will be found that some heavy calamity has fastened itself upon the mind, and the spirits have been extremely depressed. The individual loses all pleasure in society, hope vanishes, and despair renders life intolerable, and death an apparent relief. The evidence

which is generally submitted to a coroner's jury is of necessity imperfect, and although the suicide may, to all appearance, be in possession of his right reason, and have exhibited at the moment of killing himself the greatest calmness, coolness, and self-possession, this would not justify the coroner or the jury in concluding that derangement of mind was not present.

If the mind be overpowered by "grief, sickness, infirmity, or other accident," as Sir Matthew Hale expresses it, the law presumes the existence of lunacy. Any passion that powerfully exercises the mind, and prevents the reasoning faculty from performing its duty, causes temporary derangement. It is not necessary in order to establish the presence of insanity to prove the person to be laboring under a delusion of intellect—a false creation of mind. A man may allow his imagination to dwell upon an idea until it acquires an unhealthy ascendancy over intellect, and in this way a person may commit suicide from an habitual belief in the justifiableness of the act. If a man, by a distorted process of reasoning, argues himself into a conviction of the propriety of adopting a particular course of conduct without any reference to the necessary result of that train of thought, it is certainly no evidence of his being in possession of a sound mind. A person may reason himself into a belief that murder, under certain circumstances not authorized by the law, is perfectly just and proper. The circumstances of his allowing his mind to reason on the subject is a *prima facie* case against his sanity. At least it demonstrates a great weakness of the moral constitution. A man's morals must be in an imperfect state of development who reasons himself into the conviction that self-murder is under any circumstances justifiable.

We dwell at some length on this subject, because we feel

assured that juries do not pay sufficient attention to the influence of passion in overclouding the understanding. If the notion that in every case of suicide the intellectual or moral faculties are perverted, be generally received, it will at once do away with the verdict of *felo-de-se*. Should the jury entertain a doubt as to the presence of derangement—and such cases may present themselves—it is their duty, in accordance with the well-known principle of British jurisprudence, to give the person the benefit of that doubt, and thus a verdict of lunacy may be conscientiously returned in every case of this description.

Having, we think, clearly established that no penal law can act beneficially in preventing self-destruction—first, because it would punish the innocent for the crimes of the guilty, and, secondly, that, owing to insanity being present in every instance, the person determined on suicide is indifferent as to the consequences of his action—it becomes our province to consider what are the legitimate means of staying the progress of an offense that undermines the foundation of society and social happiness.

If we are justified in maintaining that the majority of the cases of suicide result from a vitiated condition of the moral principle, then it is certainly a legitimate mode of preventing the commission of the offense to elevate the character of man as a moral being. It is no legitimate argument against this position to maintain that insanity in all its phases marches side by side with civilization and refinement; but it must not be forgotten that a people may be refined and civilized, using these terms in their ordinary signification, who have not a just conception of their duties as members of a christian community. Let the education of the heart go side by side with the education of the head; inculcate the ennobling thought, that we live not for ourselves, but for others; that it is an evidence of true chris-

tian courage to face bravely the ills of life, to bear with impunity "the whips and scorns of time, the oppressor's wrong, and the proud man's contumely," and we disseminate principles which will give expansion to those faculties that alone can fortify the mind against the commission of a crime alike repugnant to all human and divine laws.

"And make us rather bear the ills we have,
Than fly to others that we know not of."

THE CASE OF CZYNSKI.

BY MORITZ ELLINGER, ESQ., SECRETARY OF THE MEDICO-LEGAL
CONGRESS—CORRESPONDING SECRETARY OF THE
MEDICO-LEGAL SOCIETY.

Criminal proceedings against a man by the name of Ceslav Lubicz-Czynski, on the charge of having had recourse to hypnotic suggestions in order to win the affections of a woman of high social position, and obtain her consent to live with him in illicit intercourse, and subsequently to marry him after he had subjected her to his will, imposed upon her by his power of hypnotization, were recently instituted in one of the higher courts of the city of Munich, Bavaria, and conviction secured on that charge. Hypnotism has figured in courts of justice here and abroad in a number of cases, but only as far as I am aware as a defensive plea, in justification of criminal acts, committed, as claimed, under the influence of the will of some other person, who, by suggestion, made the criminal actor a willingless instrument of criminal design, and compelled the commission of a criminal act, for which the accused could not be held responsible and which he was powerless to resist. But in this case the principal, the hypnotizer, was tried for using his art for illegitimate and criminal purposes, convicted upon the charge, and sentenced to imprisonment, after a protracted trial, upon the evidence and the rendering of opinions of eminent scientists. For the first time, I believe, has hypnotism been thus recognized in legal pro-

ceedings as a factor in the human will, as a psychological power for evil, scientifically defined, and with which the administration of justice will have to deal whenever accusation or defense shall resort to the plea of hypnotic influence or suggestion.

The case as tried before a court and jury in Munich, beginning on the 17th of December, 1894, and lasting for three days, is of sufficient interest to medico-legal science for extensive notice. It appears from the record of the proceedings that Ceslav Lubicz-Czynski, a native of Turzenka, District of Warsaw, Russia, Poland, 36 years of age, had lived in Cracow until the year 1890, as private teacher of the French language, where he also figured as an expert in effecting cures by the means of magnetism and hypnotism, a method, which, as he announced in circulars and advertisements, of his own discovery. He was married, but about that time he left his wife and lived together with a woman by the name of Justine-Marger, with whom he had a child. In 1892 the pair went to Posen, and in that city, as well as in smaller towns of Prussian Poland, he delivered lectures on hypnotism, occultism and cognate subjects. He did not succeed very well, but kept on, gave public exhibitions of his hypnotic power, and claimed to be able to cure every disease, however hopeless it may appear. He also gave exhibitions pretendedly for the benefit of charitable objects, but as he invariably pocketed the money himself, he was expelled from Prussia in 1893. In April of that year he transferred his field of operations to Saxony, and its capital, the city of Dresden, where he also announced in the public press the wonderful powers which he possessed and which enabled him to effect wonderful cures.

One of these announcements came under the eye of Hedwig von Zedlitz, a member of one of the oldest families

of the German nobility, a spinster, 38 years of age, of unblemished private character and strict religious habits and disposition. She suffered from pains in her head and stomach, and she applied to Czynski for relief. He treated her by placing his hands upon the part of her body, which she pointed out as the seat of pain, and also prescribed medicine for her. The relations of Czynski and his patient grew more intimate with every visit which he made to her rooms, or her visit to his rooms, until their engagement, which, however, was kept secret, because Czynski declared that political considerations demanded it. He told his affianced lady love that he was the last offshoot of a princely family of Lithuania, and for that reason the public announcement of his betrothal and marriage might cause some unpleasantness; a lady of the best Dresden connections with whom he enacted the role of Joseph against Potiphar, might plan revenge, etc. He also claimed to be the last scion of a ducal family, the Prince of Swiatopelk. The engagement with Baroness von Zedlitz induced him also to discharge the woman he lived with, the mother of his child, on the plea that his first wife was coming back, and that he would take steps to secure a divorce, for which purpose he abandoned the Catholic faith and joined the Protestant church.

At the end of January, 1894, Baroness Zedlitz made a journey to Switzerland and Czynski took up his residence at St. Gallen, from which place the cards announcing the engagement of the parties were sent out. The marriage was to take place in secret, in Munich, for which place the Baroness set out on February 6. In the meanwhile, C. went to Vienna and secured the services of an old acquaintance of his, a certain Stanislaus Wartalsky, promising him a good position on one of the domains of his future wife, assuring him that his wife was in full agreement with

what he was doing, and what he wanted his friend to do; namely, to personate a Protestant clergyman and to perform a spurious marriage ceremony. Wartalsky made his appearance as promised, and was received at the railway depot by C. On the day following, Wartalsky was introduced at the Hotel "Europaeischer Hof" to Baroness von Zedlitz as Dr. Wertheman, pastor of the Protestant church, and on the 8th of February the marriage was duly performed in one of the rooms of the hotel. The pretended Dr. Wertheman wore the robe of a Protestant clergyman. At the table before which the bridal couple kneeled stood a crucifix, with two candlesticks and a ritual, which the clergyman had brought with him from Vienna. Wartalsky, alias Dr. Wertheman, read off an address from a paper, put to the couple the prescribed questions, which they answered with a loud "aye," after which he put the wedding ring on their fingers and pronounced his blessing. There were present as witnesses the Court Jeweler, Paul Merck, a Mrs. Elizabeth Rudolt, companion of the baroness, and a chambermaid. Wartalsky left a marriage certificate, for which he used the form as prescribed in the diocese of Salzburg, which both of them signed. The words "Catholic religion" were stricken out, and the words "Augsburg confession" substituted. A wedding breakfast followed, during which Wartalsky toasted the duke and duchess, and Czynski showed his wife a telegram which, he said, came from the Austrian Chancellor Kalnoky, conveying congratulations.

When the father and brother of Baroness Zedlitz, the latter of whom held a position in the heraldry office at Berlin, heard of these proceedings, they applied to the police authorities, and a week after the pretended marriage Czynski was placed under arrest.

After a number of protracted examinations, the follow-

ing indictment was preferred to the principal points of which C. pleaded "not guilty:"

1. To have put Baroness von Zedlitz, by means of hypnotism and suggestion, in a condition of loss of will power, and in which she, without the power of asserting her own will, became subject to his will, and that he abused her in that condition for illegitimate sexual intercourse.

2. That he induced Wartalsky, by the promise of financial gain, to perform a function which can only be performed by a person properly authorized.

3. That he passed over to the brother of the Baroness von Zedlitz a document which was a fraudulent marriage certificate, for the purpose of securing thereby the financial advantages which the connection with Baroness von Zedlitz, who is a person of considerable wealth, would give him.

The testimony of the witnesses given during the trial is of great interest in a medico-legal sense, but I must confine myself to the principal points, especially to the testimony of the accused and his intended victim, and to some extracts of the opinions of the experts.

The manner of his becoming acquainted with Baroness von Z. and of his qualifications for the performance of professional cures by training and education, he describes in substance as follows:

"I was teacher at the gymnasium of Cracow, and in former years a student at the university of that city. I took a great interest in the subject of hypnotism, studied it thoroughly and wrote several books on it. In 1892 I went to Paris, attended the clinical course at the Charite, and obtained a certificate as a student of medicine. Of course, I am not a graduated physician. On account of my books on hypnotism I received from the Rouan Academy the

diploma of M. D. *honoris causa*. Before the Medical Society of Constantinople I delivered lectures on hypnotism. I am the author of twenty-two books." He also claims to be a member of the Paris Societe des etudes esoteriques.

In his treatment of Baroness von Zedlitz he had applied the method learned in Paris for the cure of headaches, but denies that he ever put her into a hypnotic condition. He never had put his hand upon the stomach of the patient, and she had never taken, during his treatment, a recumbent position, but always sat in her chair. To the question of Dr. Schrenck whether he ever made any passes with his hands in the region of the stomach, he answered: "Simply massage." The sessions lasted from a quarter of a minute to a minute. Actual bodily treatment was only had during these sessions, in the months of August and September, at which his housekeeper was present, who held the hands of the patient. To the question of Expert Dr. Hirt, what Czynski meant by method of transference, a method which has been abandoned long since and which consisted in the application of magnets, for which, however, no medium was required, he showed a work of Prof. Luys, of Paris, on that treatment, published in 1892, which proved that the method was still in vogue. He understood by transference the transference of disease from the body of the patient to the body of the hypnotized subject. To the charge of the President of the Court that he made the Baroness submit to his amatory offerings by annihilating through hypnotic influences her power of resistance, he replied: "A person as morally pure and as severely religious as the Baroness cannot possibly be deprived of her will power. In order to succeed in such a case the person would have to be subjected to a great many hypnotic operations, and a sickly person is not in a condition to concentrate her thoughts as sharply; this is an impossibility."

The examination of Baroness von Zedlitz takes place in the absence of the accused at her request. She is of tall build, features pleasant, but not handsome, and an expression of fatigue in her face. Her age she gives as 39, Protestant confession and the proprietress of the domain Inga. She had seen the doctor's advertisements in the Dresden papers, and she went there to consult him for her headache, and also to see a somnambule, which she was curious to see. When she came there the first time he was out, and a lady who happened to be there told her he was just then with the somnambule. This lady she recognized later as the medium. On the succeeding day she found Czynski at the somnambule's; she had to put her hand into hers while the latter was in hypnotic trance, and the somnambule then diagnosed her disease. The consultation proceeded in the following manner: "Czynski took one of my hands and the somnambule the other. She then told me various things which surprised me. She also told Czynski he should give me something to cure my pains; he knows what. The conversation was carried on in French. After that he woke the somnambule up, who rather disliked to be aroused. She then left the room. I asked him then if he considered it necessary for me to come back, and he thought it would be very desirable. Then I went there either the day following or a day thereafter. The somnambule was not there. Her name was Mrs. Hofman, nee Koenig. He did not know my name then. On that day he told me different things from an examination of the palm of my hand and from a book, for instance, to what star I belonged. He then gave me a number of prescriptions, as I was on the point of traveling. The medicine was partly for external, partly for internal use. I believe he applied electricity to me then and placed his hand upon my head. I did not visit him further before

my journey to Thuringen. I returned from my journey about the 2nd of September, and I had written to him during my absence abroad that his remedies had not benefited me any. After my return he visited me several times at my hotel, accompanied by his medium, where he treated me, which consisted of putting his hand upon my stomach and then upon my head, after I had opened my dress, so that his hand rested upon my shirt. He then passed his hands to and fro and spoke to me. I leaned back and closed my eyes. He told me to open my eyes and be cheerful, gay, laugh and eat well. The medium had been put to sleep already, and was seated next to me, holding my hand and touching my knee."

In answer to the question of Prof. Preyer as to the time which those proceedings lasted, the witness answered: "About half an hour. I was always so sleepy. Czynski maintained that I was half asleep already. I laughed and insisted that it was not so. I never got asleep fully; it was only a doze. I remembered everything that occurred that day. After the treatment the medium took my hand and danced with me around the room. I asked her what she meant, and she said she was directed by him to do so. After the entire close of the proceedings the medium woke up and I also became fully aroused. I felt a pressure at the back of my head at various intervals, and visited C. again, and he resorted to the same treatment. He wanted to put me into a full sleep, but did not succeed. At one time I sent my maid to him to inform him that I could not come because I had the migraine. 'Oh, she will come!' he replied, and in reality I felt thereafter a little better, and at five o'clock in the afternoon, the time of the appointment, I went there. It was about this time that I gave him my name." After a great many details of the visits of the witness she related her further connections

with him: "It was about the month of October that Czynski made a declaration of love to me during the treatment. I was frightened, surprised, and felt a profound pity. He made the confession while I was in a condition of half sleep. He added that he was poor. Wieczinski, who I believed to be his wife, and of whom he spoke as his 'lady,' he told me was studying medicine. His wife, he told me further, was unfaithful to him, and he was very unhappy. I alone could save his soul and make his happy. He will apply for a divorce, turn Protestant and marry me. I cried, felt great sympathy for him and believed that I would have to do a good work. But I cannot say that I felt any love for him. He overwhelmed me with letters, became distressingly persistent and continually dwelled upon his love for me during his treatment. His love found, however, no genuine response. But as something sad had occurred I asked myself whether I loved him, and whether I should help him to a better life. Then I said to myself: 'Yes, I have surrendered myself to him.' I do not know how that was possible. It was done so suddenly. All of this is so terrible, but I could not help it. Therefore I resolved to marry him, because I felt pity for him, and sought to discover a good kernel in him and wanted to save his soul. I had never before had the idea of marrying him, and until his declaration of love I only evinced interest in his performances."

To other questions by the Court the witness said in substance: "He never ceased his impetuosity. I did not want to entertain his offers of meeting him, but I could not resist, and was compelled to meet him. We often discussed religious matters, and he then said I could save his soul. This gave me a sort of satisfaction, and I finally consented to accept his proposition. I no longer had any control over myself. I felt that I was entirely subject to

his influence. The intimate intercourse with C. was not had during a condition of somnolence, only I was influenced to such a degree that I could not resist him. Though I was aware of the wrong I was doing, I was powerless to resist. Now that I have found out how Czynski has lied to me, I have a perfect aversion to him."

This extract from the testimony of the principal witnesses is probably sufficient to afford a clear view of the groundwork upon which the legal proceedings rested, but the opinions of eminent experts who rendered opinions are of paramount interest. Dr. Fuchs of Bonn said he could not enter upon special questions, but desired to give his opinion of hypnotism in general, as he was probably summoned for that purpose. His view in regard to hypnotism was a total denial of its power. He does not consider it an instrument by which the human will could be controlled in a permanent or irresistible way. Nobody would succeed to induce one who simulates disease to relinquish simulation. Of course, witnessing the exhibitions of practitioners, the impression is made that their orders are implicitly obeyed. If a subject is told "You are not a human being, you are a dog," he runs on all fours, and barks, etc. All this is admitted. Experiments like these he had witnessed in Paris years ago, in great numbers, especially at the clinics of Professors Luys and Charcot. His conviction was that all the subjects practiced on were stupid people. They are under no other compulsion than the desire to make themselves interesting, or from some inducement to do the practitioner a favor. Of the great scientists, such as Charcot, for instance, no one would maintain that either of them could be placed into a hypnotic condition. Hypnosis will not succeed with any person who has the feeling of serious responsibility. He has the conviction that all the instances of hypnotism which he had seen were only a farce.

Expert Professor Dr. Grashey of Munich, in the introduction of his opinion, gave a definition of hypnotic influence and suggestion. "Suggestion," he says, "means to suggest to somebody a certain thought, to persuade him that a certain idea transferred is his own. Suggestions play a great role in the intellectual life of man, and especially in education. Children have no independent judgment and rapidly adopt the thoughts suggested to them by their parents, teachers and friends. But suggestive effect is due not merely to words, but also to example. A person can be suggested to go to sleep. Such a sleep, induced by suggestion, is called hypnosis, and the inducement of hypnosis is called hypnotism. The person who hypnotizes another is called hypnotizer. Hypnosis, or sleep induced by suggestion, has the peculiarity that the subject remains in mental rapport with the hypnotizer, who can suggest or transfer thoughts to the hypnotized person, and then the latter can offer less resistance than in a wakeful state.

"Hypnosis has also the peculiarity that it can be produced easier and easier as the operation is repeated. It is well known that through the means of impressed thoughts, persuasion and by given examples, the will of persons can be acted upon—can be influenced. Such an influence, however, does not mean an interference with the freedom of will, because in a normal condition the whole stock of experience is on hand to be used in opposition and counter-reason against the proposition made. I am not one of those who, on account of the mechanical regularity with which the will expression of the man in normal health proceeds, are disposed to throw a doubt upon the existence of free will, and thereby question the application of the principal in criminal law which presupposes a free will, the free self-determination of man. According to my conception the grown man can be held devoid of his free

will irresponsible then only when the action is exclusively or predominantly the product of abnormal or diseased factors, abnormal or diseased illusions, abnormal or diseased feelings, disposition and will impulses.

It must be ascertained, therefore, whether thoughts which are inspired during a light hypnotic condition affect or change as little the will power as the thoughts do which are suggested in a wake condition without preceding hypnosis.

In a light hypnosis the normal man does not dispose to an equal degree of his accumulation of experiences and of his ability of remonstrating as he does in a condition of full wakefulness. He receives the inspired thoughts more readily, he is more suggestible, he accepts many thoughts which he would have rejected in a wake condition, because he cannot dispose of remonstrative reasoning. I maintain, therefore, that the normal man disposes with less freedom of his will during a condition of light hypnosis. If, however, as it is generally assured, the suggestibility increases with every new production of hypnosis, the will power, as against the will of the hypnotizer, decreases by degrees, and the interference with the freedom of the subject's will increases as well as the restriction of the power of will. The subject frequently hypnotized remains also more suggestible in the intervening time, and it thus follows that thoughts may be suggested during his wake condition which he would have never accepted before the hypnotic operations had begun. The control of the subject's will may be undertaken, therefore, in a wake condition, and can be heightened by suggestions during the period of wakefulness; and thus we see a hypnotizer attain finally such power over his subject that a single word, a single look, may put him to sleep. At such a degree of suggestibility there can no longer be a question of a normal rise

and leave of thoughts, of a normal procedure of the process of reasoning. The potentiality of putting a man so promptly and so rapidly to sleep is not reconcilable with the assumption of free will power, and rather presupposes a condition of unfreedom of will.

Not only in regard to the time of going to sleep, of the beginning of hypnosis, is the person hypnotized dependent upon the hypnotizer, but also in regard to thoughts and feelings. A thought which is slightly opposed during the first condition of hypnosis in a less degree than in the normal condition will meet with less opposition as the hypnotizing progress is continued; sentiments and dispositions which were but slightly indicated during the first operation will grow, become stronger and more intense as the process is repeated.

Again, a hypnotizer who has gained a certain power over an individual by a repetition of hypnotic procedures can suggest successfully a thought or a sentiment which in the commencement would hardly have been received, and thus the hypnotized individual falls into a condition of subserviency in ideas and sentiments at the cost of his own freedom of will.

What, then, is a condition of "loss of will" in the sense of the law?

"Loss of will" is as much as total absence of will power; because consciousness means absence of consciousness, irrational means absence of reason.

As a child under the age of twelve years in the sense of the law is considered to be without the power of free will, and therefore legally irresponsible, therefore every child under the age of twelve years has in the sense of the law will; therefore, when we speak of a condition "without will power" we do not mean a condition which excludes all assertion of will and every expression of will, but merely a condition in which on the whole, or in a special relation, the determination of the will is excluded.

THE NECESSITY OF AMENDMENT OF THE LAW OF NEW YORK APPERTAINING TO COMMITMENTS OF THE INSANE.

BY ALBERT BACH, ESQ., SECRETARY OF THE MEDICO-LEGAL
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In contemplating the subject of my paper, I am forcibly reminded of the old nursery story of the pious hypocrite, who, with an accurate knowledge of the consequence of his intended act, cried out, "Mad dog! Mad dog!" with the result so well known. It would be a stupid child indeed who hesitated to place the blame for the dog's death where it properly belonged, yet, strange to say, the goodly influence of the story seems to have been confined to the nursery alone. No matter how much man's inhumanity to man may be doubted, my personal research and experience have taught me that there have been, are, and always will be human monsters fully aware of the certainty of social and business death consequent upon a false charge of insanity and commitment thereunder, yet eager to avail themselves of the letter of the law as a shield against just condemnation for the enormity of the crime of making such false charge and bringing about such improper commitment.

It is no adequate answer to say that there are but few of such monsters, and, therefore, we should not heed them. Criminal laws are enacted to protect society against the wicked few. No rational being would attempt to contend

that, because comparatively a small number of persons will avail themselves of the provisions of a bad law, that, therefore, no effort should be made to abrogate such law. The *laissez-aller* doctrine, the *argumentum ad convenientiam* are invariably advanced by weaklings and sluggards in the field of sociology; the true reformer of social wrongs, ever jealous of the eternal rights of man, ever alert to wage war against the encroachers upon those rights, does not ease his conscience with any such sophistry, does not assert that everybody's business is nobody's business, and particularly none of his, but exerts himself to rid the world of crime and criminal propensity, and leads in the labor of perfecting mankind.

Call such a reformer "crank" if you will, be he but true to his lofty principles the appellation "crank" when applied to him, will eventually become synonymous with that of philanthropist. In this age, not only the sins, but also the misfortunes and afflictions of the parent are visited upon his children, and none of such afflictions more so than that of lunacy. Show me a man who has, whether rightfully or wrongfully, been committed to a lunatic asylum and kept there for any length of time, and I will show you a man whose whole life is blasted. The stigma of criminality is not so far reaching or disastrous as that of insanity, and the laws of heredity have greater popular sanction when applied to insanity than when applied to crime. The presence of a discharged lunatic is more dreaded and avoided than that of a discharged criminal, and that, too, although we be assured that the once lunatic has been thoroughly and entirely cured—there appears to be a lurking suspicion that once insane, never thereafter absolutely sane and harmless. Add to the above considerations the instinctive demand of all civilized beings that personal liberty should be held inviolate, and we have,

indeed, grave reasons for the amendment of a law which not only permits of the unwarranted deprivation of one's liberty, but also of his social, professional and mercantile status.

I am a believer in the necessity of stability in the laws of the land, but at the same time I contend that when amendment or even repeal is necessary there should not be any hesitation to either amend or repeal. There are certain contingencies which cannot always be foreseen and provided against, but as a rule there would be less occasion to change our laws if there were a greater amount of learning and cool, calm, thorough, and exhaustive deliberation brought to bear in the enactment thereof.

I have had the honor heretofore of arguing before the Medico-Legal Society of New York that the existing law of the State of New York as to the commitment of the insane should be amended, and that as it now stands said law is a menace to the rights of the citizens of this State, and while the title of this, my paper, may appear to treat of a purely local law, it seemed to me that a presentation of my reasons for such amendments as I advocate will lead us in our discussion out of the narrow confines of mere State legislation into the broad field of universal legislation in this interesting and vitally important subject.

We should approach the consideration of all medico-legal questions free from any mere professional prejudice or preconceived ideas. The union of our two noble professions should be like a successful marriage in which we find harmony, unity of purpose, and mutual welfare as the result.

There is a tendency on the part of some physicians to consider lawyers inimical to the medical profession, and by reason of such belief an unwarranted hostility on the part of said physicians has arisen against the legal profession. There appears to be an opinion among certain alienists

that lawyers are little less than impertinent when attempting to walk into the domain of mental medicine, and such sentiment often leads to a purely obstinate, reasonless opposition to any innovation or suggestion on the part of the legal profession. If gentlemen of the medical profession would but remember that there are men sufficiently versed in both the science of medicine and law as to entitle their opinions in both fields to respectful consideration, there would be more toleration of the lawyers' views on medical questions, less pure bias, greater candor and interchange of ideas, greater advancement of medico-legal science, greater benefits to humanity at large.

I have been told by some very estimable alienists that a lawyer is, by training, apt to give undue importance to what the said alienists are pleased to designate as mere personal liberty, and those gentlemen have urged upon me the necessity of subordinating personal liberty to the treatment of mental disease.

I recognize and admit that when confinement in a lunatic asylum is essential for the proper treatment of one mentally deranged, and for the protection of society at large, the individual rights of absolute freedom under sanction of law must yield to the public good, but I do not acquiesce in the propositions that all cases of mental derangement require enforced incarceration and treatment in an asylum, or that mere certification of insanity by a couple of tyros in the medical profession is justification for such enforced incarceration.

Some years ago a society was formed in this city having for its object the protection of sane persons threatened with commitment to lunatic asylums, the procurement of the release of those who were improperly detained in said asylums, the enforcement of proper care of the insane in and out of asylums, and agitation of reforms in the laws apper-

taining to the insane. I had the honor of being the counsel for said society, and my experience as such convinced me that many reforms were needed not only in the interest of people of unsound mind, but also for the conservation of the rights of the sane when attempted to be infringed under cover of our loose law as to the commitment of persons to asylums. I have appeared before committees of both branches of our State Legislature urging the passage of bills whose purpose was the alleviation of the suffering of the insane from official maladministration and maltreatment; I have raised my voice frequently in an effort to awaken the public to a necessity of a jealous care of our afflicted fellow mortals confined in so-called State hospitals, and I sincerely believe that the tendency of to-day is to compel the treatment of the insane as patients, rather than as wild, dangerous beasts.

Alienists as a rule ridicule the suggestion that sane people are in danger of the operation of our law of commitment to asylums, and while to a certain extent acknowledging the inefficiency of that law as insuring perfect immunity from erroneous commitment, they tell you that there are so few cases of persons committed without cause that the law should be allowed to remain as it is. It is my opinion that the majority of alienists are so bent on discovering the abnormality of mind that they often fail to perceive normality thereof, and their list of perfectly mentally sound individuals is very limited in number, so much so that those amiable minded specialists would deem it safe to place nine-tenths of the population of the world in some quiet, restful retreat, wherein the nerve centre might be relieved of undue agitation and their estimate of mental balance be attained.

A very prominent alienist of this country remarked to me that he knew of many cases of people confined in

lunatic asylums who should not be detained there, but he was not aware of a single case of a perfectly sane man or woman being committed to an asylum. My answer to him was that I, in my practice, did know of sane people who had been kidnapped and actually dragged into asylums under the form of legal commitment, and that I agreed with him as to wrongful detentions in asylums, because I had liberated therefrom a number of persons perfectly sane, and that, too, in the face of the most strenuous opposition of the Superintendent, in the courts and after full hearing.

I do not assert that all Superintendents of lunatic asylums would willingly detain a person improperly committed, but even if I were to admit that there was not a Superintendent who would be a voluntary party to such a false and horrible imprisonment, the fact still remains that the Superintendents are not the original parties to the commitment proceedings, and as the law now stands, permitting confinement upon the certificate of two supposedly respectable physicians, very few if any Superintendents would refuse to receive into an asylum a person so certified to be insane. True, the Superintendent has the power to discharge the party if upon examination he is found to be sane, but there is involved the necessary delay for examination and the setting aside of a legal commitment. In other words, under the present system in this State as to such commitment, it is tantamount to declaring a man guilty before trial, and then having a trial at which he must prove himself innocent. Some people may indulge in the violent presumption that every one is insane till proved sane, and from a certain standpoint they may be correct, but such doctrine would be very dangerous were it allowed to prevail.

My purpose in bringing the question before this Con-

gress is to procure for it a wider discussion and the benefit of the opinion of other eminent medico-jurists in aid of legislative action. The faults I find with the existing law are these:

It permits commitment and confinement in an asylum upon the mere certificate of two physicians under oath, without any hearing or representation of the accused, which is contrary to and in direct violation of the Constitution of the State and of the United States; such commitment, in my opinion, should never be made, except after a full hearing by a Judge of a court of record or a jury, with full notice to the accused and in his presence, if practicable; and at said hearing the accused must be represented by counsel. The notice of the accused should put him in possession of all the facts and charges he has to meet, including the grounds and reasons for attempting to have him committed, and the names of his accusers. Notice should also be given to all the known relatives of the accused of the time and place of the hearing. There should really be two hearings—a preliminary one and a final one; the preliminary one might be had before the Judge alone, but always in the presence of the accused or his attorney; the final hearing should be had before a Judge and jury or a commission composed of a lawyer, a layman, and competent alienists, and ample opportunity should be given the accused to defend himself against the charge of insanity.

The purpose of a preliminary hearing is to determine whether there is sufficient reason for even temporary confinement in an asylum. The utmost publicity in such matters, in my opinion, is conservative of the ends of justice, and is of more consequence than the wounding of sensitive feelings by the notoriety of the application in a case of real insanity. I believe that a majority of people

would prefer the protection of publicity to the danger of secretiveness and the chances of false imprisonment.

The qualifications specified in the law as it now exists as to the competency of the certifying physician are certainly inadequate to protect the liberty of the citizen. Instead of its being exceptional, it should be the rule that the court appoint alienists of undoubted eminence to pass upon the question of the sanity of the accused, who should confer before the trial with the experts of the petitioner and the accused as pure scientists endeavoring to arrive at scientific truth unbiased, uninfluenced by any other considerations.

The trial by jury of the question of insanity has some prominent opponents among medical men, and yet it seems that with the aid of the evidence of experts in difficult and latent cases of insanity, a lay jury will determine the question as well as a jury of experts. The protection of the community as well as that of the individual has been determined to be safely placed in the care of a lay jury, and if a case of murder by poisoning can be satisfactorily disposed of by such a jury, with all the confusing, conflicting, and contradictory evidence of experts in toxicology to contend with, surely the question of insanity can be equally well passed upon by such a jury. I respectfully submit that a layman is as good a judge of an ordinary case of insanity as an alienist, at the same time admitting that in a difficult and obscure case, whose discovery is dependent upon certain pathological and physiological manifestations, requiring special study to understand, it will require an expert properly to pass upon the case, but even then there is no reason to take its consideration from a lay jury, because they can act under the information of an expert.

Of course, in a case of a violent lunatic, police regula-

tions would prevail as to his custody and control. It has been said that early treatment is very essential in insanity, and that any delay thereof by reason of legal proceedings is most disastrous; the answer to that proposition is that such treatment is not at all times necessary to be administered in an asylum.

The following are the amendments I propose to the existing law on commitment of the insane in this State:

"1. No person shall be committed to or confined as a patient in any asylum, public or private, or in any institution, home, or retreat for the care and treatment of the insane, except upon an order of a Judge or Justice of a court of record in the county or district in which the alleged lunatic resides.

"2. The order of commitment mentioned in Subdivision 1 of this title shall not be made except after either a preliminary or final hearing by the Judge or Justice in said Subdivision 1 referred to. The commitment, after a preliminary hearing, shall be for a period of five days, but not longer. The commitment, after final hearing, shall be until the further order of the court.

"3. The order of commitment, after a preliminary hearing, referred to in Subdivision 2 of this title, shall not be made except there be presented to a Judge or Justice of a court of record in the county or district in which the alleged lunatic resides, a duly verified petition setting forth the insanity of the alleged lunatic and the grounds and reasons of the petitioner's belief that such person is insane, the names and residences of the husband or wife, if any, and the next of kin and heirs of the person alleged to be insane, so far as the same are known to the petitioner or can, with a reasonable diligence, be ascertained by him; a copy of which petition, together with a notice of the time and place of the hearing thereunto, must be given to the

alleged lunatic, and to the husband or wife, if any, or to one or more of the relatives of the person alleged to be insane. Said notice must be signed by the said Judge or Justice before whom the hearing is to be had, and must require the alleged lunatic to appear in person at the hearing. The said hearing shall not proceed in the absence of said alleged lunatic, unless the said Judge or Justice otherwise orders. In the absence of said alleged lunatic or an attorney-at-law of his choice, the said Judge must assign an attorney-at-law to represent said alleged lunatic at said hearing. At the termination of said preliminary hearing the said Judge may either discharge said alleged lunatic, declaring him sane, by an order to that effect, or may make an order directing such alleged lunatic's commitment and confinement to and in such asylum or retreat for a period of five days, but not for a longer period of time.

"The order of commitment, after final hearing, referred to in Subdivision 2 of this title, shall not be made, except as herein provided, until after the preliminary hearing aforesaid has been had and all requirements of said preliminary hearing have been carried into effect, including the commitment of the alleged lunatic under the order made therein, and until after a trial by jury, if the said Judge or courts so direct, or by a commission of three competent persons, one a lawyer, one a layman, and one a competent alienist, of the question of the insanity of the alleged lunatic, and the verdict of a jury or finding of such commission, declaring such person to be insane. Such trial shall proceed not later than five days after the commitment under the preliminary order aforesaid, unless the Judge or Justice of a court of record, for good reason, otherwise directs; and notice of said trial must be given to such persons and in like manner as provided for in Subdivision 2 aforesaid. In case of a lunatic who is violent and difficult

to restrain, the court may grant the order of commitment forthwith, on inspection of the lunatic or on competent proof by two witnesses, if the presence of the lunatic cannot be had, that there is immediate danger of injury by the lunatic to himself or others.

“At said trial the alleged lunatic must be present in person, unless the Judge or Justice otherwise directs, but in all instances said alleged lunatic must be represented at said trial by counsel of his own choice or by counsel whom the Judge presiding at the trial must assign to him for such purpose. Said trial shall take precedence of all others on the day calendar of any court of record, except where such other trials on the said day calendar involve the question of personal liberty. The questions to be submitted to the jury or commission on said trial shall be settled in the same way as questions are settled in the trial of an action. Such trial shall be reviewed in the same way as a trial in an action is reviewed. The expense of said trial shall be paid by the petitioner, but in the event of the alleged insane person being declared insane by the jury, and having property, the petitioner may be reimbursed for said expenses out of the estate of said insane person.”

And now I submit this subject to you for your careful consideration and discussion, feeling confident that your valuable thoughts and suggestions will materially assist me in my presentation of the matter to the Legislature of our State.

OBJECTIONS TO AND CRITICISMS ON THE MAJORITY REPORT OF THE COMMITTEE OF THE MEDICO-LEGAL SOCIETY ON THE EXISTING LAW FOR THE COM- MITMENT OF THE INSANE.

BY RALPH L. PARSONS, M. D.

The report of the majority of the Committee of the Medico-Legal Society to which was referred the consideration of Mr. Bach's proposed change in the existing law for the commitment of the insane, making Trial by Jury a necessity instead of an alternative preliminary, was placed in my hands for signature, as a member of the Committee, with the statement that every member, save Dr. Carpenter and myself, had approved and signed the Report.

In withholding my signature to this report, it is due to the other members of the Committee and to the Society that my reasons should be clearly set forth; and the rather since the substitute for what I consider the vicious Jury Trial Proposition was undoubtedly intended to be so drawn as to meet the hearty approval of every member of the Committee; it is a cause of additional regret, that some of the preliminary statements of the Report seem to be no less open to adverse criticism than the main propositions themselves.

The second paragraph of the Report is as follows, to wit:
"The subject was first discussed at a special meeting of the Executive Committee, very largely attended, at which all

Read before the Medico-Legal Society, December, 1895, and ordered printed in the discussion, in the Bulletin of the Medico-Legal Congress.

the Superintendents of Hospitals for the Insane in the State and City of New York and its vicinity, and the Chairman of the State Lunacy Commission were invited, and eminent alienists and jurists." This sentence is preliminary and leading up to the following paragraph, stating what the discussion developed, and implying by its phraseology that the meeting was a representative one, and that the discussion was participated in by a considerable number of men of large experience pertaining to the insane. But, although it will be freely admitted that the legal gentlemen present were eminent in their profession, the eminent alienists of the State were not largely represented at the meeting. Indeed, in so far as I have been able to learn, none of them were there. If they had been there and had participated in the discussion, the majority Report that followed could not have been what it is.

The third paragraph of the Report commences as follows, to wit: "This discussion developed a general feeling of dissatisfaction with the law of commitment as it now stands in the public mind." This rather obscure and ambiguous sentence may be understood as a claim that the speakers were representatives of the state of public feeling in the matter, and that what they said was a proof that the great mass of the public was dissatisfied with the present law of commitment in this State. If this is the meaning of the clause quoted, I would interpose a denial that any such state of general dissatisfaction exists. For the purpose of the present discussion the great public may be divided into three clauses; (1) Those who have insane relatives and who already have a practical knowledge of the working of the law and of the management of our hospitals for the insane, (2) the greater portion of the public who have never been personally interested in the matter and who have given little attention to the subject, and (3) a

few persons who have had an exceptional and perhaps unfortunate experience, with a few others of a benevolent and suspicious temperament who are influenced by theories and unfounded statements rather than by facts. The first class, certainly, can have no fault to find with the present law of commitment, for it makes provision for the placing of their insane friends under humane care and treatment, without subjecting them to any preliminary causes of injury, disturbance, or excitement. This class of persons would be highly dissatisfied with a law, for instance, calling for a Jury Trial as a preliminary to the placing of their friends under care and treatment, but assuredly not with a method of procedure which is especially adapted to their needs. And no evidence has been adduced to show that many of the second class, the great majority of the people who have given little attention to the subject and who, for the most part, do not clearly understand what the method of procedure really is, are dissatisfied with the present law. If the dissatisfaction alleged did exist among this class of people it would certainly be a matter of common knowledge and report, which is not the case. But, unfortunately, these people are easily influenced by the opinions and statements of other people in whom they have confidence, and especially in matters like this of which they have no personal knowledge. And so, statements made by a body of professional men, like the members of the Medico-Legal Society, are liable to develop doubts and dissatisfaction where none had previously existed, and for which no valid reason ever had existed. For this reason, it is incumbent on such members of the Society as do not believe the statement of general dissatisfaction to be correct to make a vigorous protest. As an example of the influence a single individual may be able to exert on the class of citizens above mentioned, reference

may be made to the case of Mrs. Packard of the State of Illinois. She was either iusane, or had conducted so like an insane person, that she was pronounced insane, was placed in the Illinois Hospital for the Insane, and was considered insane by the expert physician at the head of that institution, and by his assistants. But after her release, sane, or insane, she constituted herself an Anti-Kidnaping Society; and by persistent work and by her representations of Asylum life and of the danger of incarceration as lunatics to which the citizens of the State were exposed, she procured the enactment of the law of that State providing for the trial of the insane by jury which remained the law of the State for twenty years, until two years ago, notwithstanding the protests and efforts to procure its annulment by those citizens who had knowledge of and were interested in the subject, the friends of the insane, the medical profession of the State, and the Medical Superintendents of the Hospitals for the Insane. And even now, so fossilized in the line of precedent do legal methods become; the old method of procedure by Jury Trial is still in general practice in nearly half the counties of the State.

Before proceeding to a consideration of the resolutions themselves, it may be well to review the method of procedure now in practice in this State, together with some of the safeguards against mistakes, or malice, that go with the process of commitment and the subsequent confinement. Two examiners in lunacy first examine the patient, as physicians, and in such manner as to avoid wounding his susceptibilities. If satisfied that he is insane and a proper case for hospital detention and treatment, they make their affidavit to a paper setting forth their opinions and the explicit reasons on which these opinions are founded. This paper is brought before a judge of competent jurisdiction for his approval. If he is satisfied by the

statements of the document itself, or by a knowledge of the character and competence of the medical examiners, or both, that the person named in the affidavit is insane and a proper case for detention and care, he appends his official approval. Either before, or after admission to the Hospital the patient is informed of the nature of his malady and the legal nature of his removal from home and of his detention. A copy of the certificate is immediately sent to the office of the State Commissioners in Lunacy for their inspection and approval. The patient is allowed to write to the Commissioners, or to any State Official at any time and is allowed to write other letters at stated intervals. In addition to this, it is ordered that any patient who wishes to consult with the Commissioners in Lunacy be allowed to do so, whenever they visit the Hospital.

The first two resolutions adopted by the majority of the Committee and approved by such members of the Society as were present at the subsequent meeting are as follows: "That the present law is faulty in permitting any citizen to be committed and confined in an asylum, public, or private, or any institution, home, or retreat for the care and treatment of the insane upon the mere certificate of two physicians under oath," and "That such a commitment made in this manner before it has been approved by a Court, or Judge of competent jurisdiction is in direct violation of the organic law of the State and of the United States."

These resolutions are in opposition to a clause in the Lunacy Law enacted by the Legislature of the State and acted upon by Judges for the past twenty years without protest, to wit, the clause providing for the detention of a person whom the examining physicians have found to be insane for a period of five days, before obtaining the approval of a judge.

If, as stated in the resolution, this clause is unconstitutional, the matter would appear to be purely legal in character and hence not within the province of the Medico-Legal Society. But, as there is at least a medical side to the question and as the provision has a legal precedent of twenty years' practice, it is not improper that a medical man should state the medical reasons in favor of the provision.

When John Ordronaux, M. D., LL. D., formerly Commissioner in Lunacy for the State of New York, was preparing the draft of a new lunacy law, he consulted a medical man who had had some experience in the care of the insane in regard to any desirable provisions that might occur to him, from his experience. In reply, he was informed that sometimes patients were brought to the hospital in such a state of exhaustion from lack of food, or from the direct action of the disease that a few hours of promptness, or of delay in treatment might involve the issue of life, death, or recovery, or of life-long insanity; that the friends of patients sometimes delayed the taking of the necessary measures for their care and treatment until the safety of the patient, or the safety of others imperatively demanded that immediate steps be taken for their care and treatment; and that the time required to secure the approval of a judge might, and sometimes did seriously interfere with the promptness of action which had become necessary; that this urgency sometimes occurred even in large cities and was especially liable to occur in country districts. It is probable that other opinions on this point were secured. The law was passed with the probationary clause authorizing detention for a period of five days before securing the approval of a judge. The object of the five day clause was to provide for emergencies such as are above mentioned.

For the purpose of obtaining a statement of the experience and views of the Medical Superintendents of Hospitals for the Insane in this State regarding the five day clause and regarding the admission of improper subjects to their care, certain questions were submitted to them and ten replies were received.

The question regarding the five day clause was as follows: "In your opinion, is the five day clause useful and advisable, or not, briefly stating your views?"

The answers were as follows: 1. "Useful and advisable." 2. "Yes. Pray do not tinker with the commitment law as it works well. If there is to be a change, let it be along the line of greater liberty, so that the incipient insane may more easily receive care." 3. "There is no question in my mind about the value of such an emergency clause." 4. "Useful in many cases. Advisable and should be retained." 5. "I think the five day clause is often very useful, as it enables us to receive disturbed patients when it is difficult, or impossible to get the approval of a judge before the patient's admission." 6. "I believe the clause referred to to be advisable and useful as regards the purpose for which it is intended, as a provision for emergency cases." 7. "It is both useful and advisable, both for the patient and family in many cases, especially so in non-resident patients." 8. "Yes. It is often difficult to get the approval on the same day that the certificate is sworn to, and particularly on Saturdays and Sundays. Many patients are better and more conveniently cared for at the Hospital than at home, during the delay." 9. "I think the five day clause is useful and desirable as providing for legal detention of patients who have been examined in cases where a judge may be inaccessible for a day, or two on account of illness, or absence." 10. "I am inclined to think that the five day clause is useful and advisable."

And so, the Medical Superintendents of the Hospitals for the Insane of the State, in so far as appears, are unanimously of the opinion that the five day clause is useful and advisable. And it should be observed that the operation of this clause is a source of personal annoyance rather than a convenience to these Superintendents, save in so far as it is of advantage to the patients who are thus admitted to their care, inasmuch as it involves anxiety and watchfulness on their part, lest the examining physicians should fail to secure the approval of a judge, in due time.

The third Resolution adopted by a majority of the Committee was as follows, to wit: "That the qualifications specified in the law, as it exists, as to the competency of the certifying physicians, require only three years actual practice of his profession, and without requiring evidence of his experience, or practical knowledge of insanity, are entirely inadequate to protect the liberty of the citizen."

This resolution was presumably passed on the assumption, or under the belief that persons who are not insane are often declared lunatics and are committed to Hospitals, as such; and furthermore, that if experts were to be examiners in all cases, such mistakes would not occur. Without at this point calling this assumption in question, it is pertinent to call attention to the gross inconsistency of the advocates of a change in the law in calling for the appointment of examiners in lunacy such physicians only as are recognized as experts. The most radical and the most enthusiastically earnest of those members who are advocating a change in the lunacy laws are urging Trial by Jury as the most certain of all methods for the prevention of the incarceration of sane persons as lunatics. Indeed, some of these men have publicly declared it as their belief that any layman of good understanding is quite as competent to form a correct judgment on the question of insanity as

any physician is likely to be. And yet these same persons together with their more moderate colleagues are willing to publish it as their deliberate opinion that an educated physician of three years' experience is presumably quite untrustworthy for the performance of this duty. But, under modern methods of instruction in Medical Schools, the graduate of three years has probably been taught more and knows more of lunacy and more of the proper methods of examination than graduates of ten years' experience usually learned in former times. And, furthermore, it is of great importance to the public that the family physician should be reasonably well instructed in the diagnosis and probable course of incipient cases of insanity. But, the general practitioner would be greatly deterred from attempting to gain the necessary qualifications, if all cases of diagnosis were referred to such experts as would be required for the diagnosis of obscure cases of mental aberration.

The question of having medical experts in lunacy, only, as examiners was investigated some years ago in England; such men as Lord Shaftsbury, Henry Maudsley, John Bucknill, Hack Tuck, and J. Lockhart Robertson having been examined under oath. In England all the qualification required of medical examiners was that they should be physicians. Their findings were not required to be approved by judicial, nor by any other authority. Dr. J. Creighton Brown, Lord Chancellor's Visitor in Lunacy, testified in reply to the following questions. "Might not some system of medical referees-----possibly be established, instead of taking any chance medical man that came first?" "Might there not be some persons who should pass an examination in mental diseases to whom all these cases might be referred?" Answer: "I think it would rather tend to diminish public confidence to have special-

ists signing certificates. The public would come to associate them with mad doctors, and my impression is that it is better to have general practitioners sign certificates. The public have more confidence in the decision of the ordinary family doctor." Dr. Brown testified to the great value of early treatment. Dr. Charles Bucknill said, "I think the principle should be to make the admission as easy as possible, in order to provide for early treatment." * * *

Question: "Can you tell us what the American law is?"

Answer: "It varies in every State. The State of New York seems to have made the best change." Question:

"You think that in all cases it is a great object to get early treatment?" Answer: "I think it is the greatest point to

aim at." The testimony of others was of similar import.

And it is pertinent to state at this point that if the procedure for the confinement of the insane to Hospitals were made more public and more difficult than it now is, the friends of such patients would certainly delay the necessary steps in a multitude of instances and to such an extent that the damage done to such patients, by delaying, or preventing their recovery, would a thousand-fold counterbalance the advantage gained by the possible prevention of now and then a mistaken diagnosis.

Now admitting that mistakes may be made and are sometimes made in the diagnosis of insanity, it is of importance in considering the methods of commitment to enquire how often and how such mistakes are made, under the present method. To this end the following questions were propounded: "How many patients who proved not to be insane were admitted to your care during the year ending September 30th, 1894? Of these, if any, how many were so free from evidences of insanity that in your opinion the commitment might have been avoided, if proper care and skill had been used by the examining phy-

sicians? How many of these, if any, were in your opinion thus committed through improper motives; as malice, the desire to obtain control of property, to avoid the burden of support, etc.?"

To the last question each of the ten Superintendents replied, "None." One of them answered as follows: "I have never known a case in my fifteen years' experience in four different asylums where a patient was admitted through improper motives, or collusion. As you know, in order to accomplish this it would be necessary to induce two physicians to swear falsely, as well as to induce the Judge to approve the certificate." He might have added that it would be necessary to bribe the physicians and nurses of the Hospital and the Commissioners in Lunacy in order to diminish the danger of detection. At this point it is proper to state that the Commissioners in Lunacy have never found such a case in their official experience.

To the first two questions six Superintendents replied, "None." The other four Superintendents reported the admission of nine patients who were discharged as not insane. All these cases, with two possible exceptions, were reported as having manifested such symptoms of mental disturbance as fairly to justify the assumption that they were insane and proper subjects for detention. All of these were cases of alcoholism which could not be managed at home, save one, and this was the case of a woman who was reported as suffering from acute frenzy. None of them could have been injured and all of them were probably benefitted by the detention, care and treatment.

One of the most active and eminent of the advocates of the resolutions has written as follows regarding the possibility of mistakes in the making of commitments, to wit, "The law should be so framed that such commitments

would be impossible." Statements like this lead to the enquiry whether it is possible that this gentlemen and his learned colleagues have forgotten the proverbial uncertainties of the law; how juries disagree in their verdicts, on the same evidence and the same rulings; how decisions of the Courts are reversed by higher Courts, and then by still higher Courts until the Court of last resort has been reached, and even then with a lingering doubt of the correctness of the decision; how lawyers are constantly injuring their clients by doing the wrong thing, or by failing to do the right thing in the management of their cases; how physicians sometimes make mistakes in the diagnosis of diseases, as when they send patients ill with Chicken pox to the Small pox Hospital; that "To err is human." It may be true that if sufficient obstacles and delays were interposed some of these mistakes would not be made. But then, a lifetime of delay might elapse in some of the legal cases, small pox might become an epidemic, and many cases of insanity might, and some of them would die, or become incurable, as a result of the delay.

It is easy to understand why the legal members of the Medico-Legal Society should be earnest and persistent in their advocacy of personal liberty; but to the medical members who are especially conversant with the insane and with their needs, it is a matter of great surprise that the lawyers should be so anxious about the remote possibility that some citizen of sane mind may be mistakenly pronounced insane and so placed under restraint, while they appear utterly oblivious to the fact that citizens are constantly imprisoned by the State, on charges that are never proved; placed under the necessity of making their own defense, and then after suffering an unjust incarceration, being ruined in their business and reputation, and after having expended their means and the means of their

friends in securing their liberty, are left by the State, by their fellow citizens who ought justly to make full restitution for the wrongs they have suffered, entirely without redress; and that mere witnesses of an unlawful act are often placed in durance, without redress for the injustice they have suffered.

The fourth resolution adopted by the majority of the Committee is as follows, to wit: "That the statutory qualifications of the certifying physicians, as was stated in the law, would not be sufficient to enable said physicians to testify as experts in a Court of Justice when the question of insanity was at issue."

And yet the same men who are so anxious about the high grade of qualifications on the part of the examining physicians are equally, or even more anxious to have a petit jury decide the case on the evidence given by others. A surgeon, or an ordinary practitioner of medicine may be quite competent to decide upon, and to perform a clearly required operation in surgery while they might not be able to elucidate the highest principles of the art, in a questionable case. But this is no reason why the most learned expert should be called in every case. The general practitioner is presumed to be wise enough to call in an expert to his assistance in cases that are beyond his skill; and so, an examiner in lunacy, barring possible mistakes in judgment, is presumably wise enough to call in the aid of an expert in difficult cases, whenever such aid is available.

The fifth resolution is as follows: "That in our opinion confinement of the insane in an asylum is not necessary, beneficial, or even prudent in all cases; and that before a judge signs a warrant of commitment, the law should require him to be satisfied by competent evidence, that the insane person, if at large, would be dangerous to himself,

or to others; or that treatment in an asylum would be beneficial to him."

The first part of this resolution is a mere platitude. It never has been considered necessary and it has never been the practice to seclude all persons who are deranged in mind. There is a general impression that the asylums in existence could not contain them. If the statement on the contrary had been, that there are many persons at large who ought to be confined in hospitals for the insane for their own safety and for the safety of the public, as evidenced by the great frequency with which assaults, homicides, and suicides are committed by persons at large who were indubitably insane, the question would have had a practical pertinence. The present form of commitment explicitly states that the examiners certify to the fact that A. B. is insane and a proper person for care and treatment in some institution for the insane, "as an insane person under the provision of the statute." And this means that if at large he would be dangerous to himself, or others either by actual performance, or by lack of performance. And the Judge is supposed to satisfy himself by the statement of the commitment or by the testimony of the examining physicians, or by both, that this is the case. The law implicitly so requires; and if judges fail to do their duty in this regard, this failure is not a fault of the law, but of the judges themselves, and is a matter of legal rather than of medico-legal import.

The sixth resolution is as follows, to wit: "That in all cases of doubtful insanity, judges before signing warrants of commitment should assign counsel for the alleged lunatic, when he is not otherwise represented."

If the case of doubtful insanity is that of a crank, or paranoiac, who has committed some overt act constituting a crime, or a public scandal, and who is desirous of vindi-

cation, there appears to be no reason why he should not have a judicial investigation of some sort, with the aid of legal counsel. Insane persons of this class are not likely to be injured by such an investigation, and an adverse legal decision may be of some benefit by removing the force of the claim that an opportunity for defense has not been afforded. But, if the case is, for instance, one of incipient insanity in which the symptoms thus far are so illy defined that an exact diagnosis is difficult, and yet the progress of the malady and the surroundings of the patient are such as to demand prompt and skillful care and treatment, the interposition of a lawyer into the case would be an outrage. What is needed in such a case of doubtful insanity would be the additional counsel of men who are especially learned and have had a special experience in diseases of the mind.

The seventh of these resolutions is as follows, to wit, "That in our opinion, in the matter of commitment of the insane, the duty of medical men should be limited to giving medical evidence and the responsibility for the commitment should rest upon the Judge, and not upon the physician; that the medical profession has greatly suffered in public estimation by the practical working of the present law which throws upon the certifying physicians the opprobrium of the unfortunate, or ill-advised commitments."

The reply to this is that, with the exception of the five day clause, which has already been discussed, the duty of physicians under the present law is limited to giving medical evidence, with the investigations necessary thereto; and that the responsibility for the commitment does rest upon the judge. If it be claimed that the physicians should be quite relieved from responsibility, the physicians must be left out of the case altogether. The performance

of his functions involves responsibilities; and he cannot escape these responsibilities if he retains his connection with the case, as a physician. The truth of the latter part of this resolution is emphatically denied.

My signature of approval, then, was withheld for the reasons heretofore stated; and, in brief, because, in my opinion, the Report was ill-considered, unwise, inconsistent, lacking in uniformity of purpose, and is calculated to bring about that distrust in hospitals for the insane which it deprecates.

This paper was prepared by Dr. Parsons under the following circumstances:

At the April, 1895, meeting, of the Medico-Legal Society, the report of the committee on the amendments, proposed by Mr. Albert Bach, to the existing law of commitments of the insane in New York, was read with the unanimous approval of the Executive Committee. The report was, on motion, accepted. On the motion to adopt the same the report was discussed by Drs. E. C. Mann, Vice-President S. B. W. McLeod, H. W. Mitchell, M. D., Vice-President Albert Bach, Esq.

The report was signed by the following gentlemen: Clark Bell, Chairman, Judge Calvin E. Pratt, New York Supreme Court, Bettini de Moise, M. D., H. W. Mitchell, M. D., Albert Bach, Esq. and Ex-Judge Abram H. Dailey.

Mr. Clark Bell, Chairman of the Committee, in submitting the report of the majority of the committee, said: The committee has given a large share of attention to the subject. It was at first discussed at a very full session of the Executive Committee; then by arrangement the subject was again discussed at a meeting of the full Executive Committee, at dinner, to which a large number of guests were invited, and an entire evening spent in general discussion, Dr. Parsons being present. That the Committee had formulated a series of propositions which they had submitted to the Society for its approval, and that in declining to report favorably upon the bill proposed by Mr. Albert Bach, they had obtained the signature of the mover of the proposed amendment to this Report. Mr. Bell called attention to the fact that the Report was not signed by Dr. Ralph Parsons, of the Committee, who was strongly opposed to the bill proposed by Mr. Bach, nor by Dr. E. N. Carpenter, who also had not signed the Report, and who had written the Secretary that he was unwilling to sign it.

The amendment proposed by Mr. Albert Bach and the Report of the Committee declining to approve of Mr. Bach's recommendations as made, and formulating eight resolutions on the subject, were published in the June No. Medico-Legal Journal, 1895.

In the discussion of the Report Vice-President S. B. W. McLeod, M. D., said that he had not fully considered the subject, at least sufficient to pass on all the resolutions prepared, which he favored in the main. He

related some interesting cases from his own practice, of commitments of persons not insane.

Mr. Albert Bach, mover of the proposed legislation, said that he was as strong as ever in the faith of the propriety of the legislation he had suggested. He explained why he had assented to the Report which, while it did not go as far as it should in the needed reform, was a most important advance upon the existing law.

President H. W. Mitchelll, M. D., related some interesting cases from his personal experience and practice, of improper commitments of persons who should not have been sent to an insane asylum at all.

The Report was unanimously approved, and the Resolutions as recommended by the Committee, unanimously adopted.

At the May meeting, 1895, Dr. R. L. Parsons occupied the chair during the Session and the following action was taken:

Dr. R. L. Parsons called Dr. Ira O. Tracy, M. D., to the chair and explained that he had not signed the report of the majority committee in relation to the committee of the insane, which had been approved at April meeting, and that he did not approve certain of the provisions of the report. He was invited to prepare a paper giving his views, for the June meeting or the September Congress.

The foregoing paper was prepared and read by Dr. Parsons in response to this action.

It will be observed that the Committee took no action whatever regarding the question of Jury Trials as to insanity.

It was believed that in view of the recent amendments to the law of Commitments of the Insane passed in New York since this action, that the views of Dr. Parsons should be published in the Bulletin of the Congress, as forming an interesting part of the discussion of this interesting question.



EX-CHIEF AND ASSOCIATE JUDGES OF THE SUPREME COURT OF OREGON.

EX-JUSTICE M. P. DEADY.

EX-CHIEF JUSTICE P. P. PRIM.

EX-CHIEF JUSTICE GEORGE H. WILLIAMS.

EX-CHIEF JUSTICE A. E. WAITE.

EX-CHIEF JUSTICE E. D. SHATTOCK.

EX-CHIEF JUSTICE W. W. UPTON.

EX-CHIEF JUSTICE B. F. BONHAM.

EX-CHIEF JUSTICE R. P. BOISE.

JUDGE L. F. MOSER.

EX-CHIEF JUSTICE W. W. THAYER.

JUDGE JOHN BURNETT.

JUDGE L. L. MCARTHUR.

CREDIBLE WITNESSES AND CIRCUMSTANTIAL EVIDENCE.

BY SOPHIA M'CLELLAND, OF NEW YORK, MEMBER OF NEW
YORK MEDICO-LEGAL SOCIETY. VICE-CHAIRMAN
PSYCHOLOGICAL SECTION.

"The science of law relates to rules of conduct and of evidence, and has to do with principles in the abstract that can only be formulated and applied through reason and logic. It designates crime, fixes its punishment, regulates human action, controls affairs, proclaims what is wrong, and protects the right."^{*}

There is a law of social gravitation by which the best element of society are the most buoyant. They mount irresistibly to the top. Never yet has it been so constructed with its head in the mire, and its feet in the air. It would strike Nature a blow in the face, for which she always gives a return blow in grand rage. The dead weight of things base and low sinks fatally to the bottom. So it has always been in living, so it will be to the end.

The moral teaching of sacred history, as well as the ethics which underlies and regulates the actions of men and their relations towards each other, teaches us to expect that those who do not conform to the regulated principles of morality will in the end be caught in their own snare, and be destroyed by their own weapons.

The instincts of injured humanity, which come forth to crush wrong, are instincts far too deep and pervading in our natures, and too sure in their retributions, not to have been lodged within us, not so much as a feeling against the delinquent as a feeling in favor of those who suffered

Read before the Medico-Legal Congress, September, 1895.

^{*}Judge W. H. Francis, Medico-Legal Journal, March, 1894.

from his hand,—pity towards the weak, and care for the safety of the innocent.

With these reflections, we ask, What are the requirements necessary to constitute a credible witness?

From time immemorial, and with every nation and people under the sun, there has been some form of words or gesture, appealing to an unknown and invisible power, by which additional sanction is given to some statement or act. The more savage the nation, or the more uneducated the people, the more they value the oath as a means of eliciting the truth. Children scarcely out of the nursery, boys on the street, will cross their breast, or say "strike me dead" or "honest," or make some other solemn appeal to give assurance to the words they speak.

The Bible contains numerous instances of oath-taking among the Jews. The Greeks had a special reverence for oaths. And Livy says the sanctity of an oath had more influence with the ancient Romans than the fear of laws or punishment. In China they have a curious mode. The witness is brought into court, and handed a china saucer, which he breaks on the rail in front of the witness-box, and says, or is made to say, "In the face of God I break this saucer; if it comes together again, Chinaman has told a lie, and expects not to live five days; if it remains asunder, Chinaman has told the truth, and escapes the vengeance of the Almighty."

The Hindoo law surrounds the oath with an immense deal of formula, and denounces perjury in the most awful terms; yet the whole world contains no such all-accomplished liars in the witness-box as may be found in India. Take the following passage from one of Macaulay's Essays, in which he describes the native of India:

"Large promises, smooth excuses, elaborate tissues of circumstantial falsehood, chicanery, perjury, forgery, are the weapons, offensive and defensive, of the people of the Lower Ganges."

In this day of the world, an oath may still have some binding power over the consciences of a numerous class of persons, who are neither truthful nor quite reckless, who are without the honesty which makes the good man's oath superfluous; but with the highly cultured or the entirely vicious, an oath is nothing. It will not restrain a railroad magnate or a millionaire prince of any kind from making just such statements as he chooses to make, or not make; nor will it compel the common thief or swindler to tell the truth. The courts teem with perjurers daily; and it is commonly agreed that in every age of the world, perjury has been the dominant crime.

Fools and children tell the truth, but in a court of justice they must be able to answer certain questions, or they are not allowed to tell what they know. A little street gamin, called as a witness, was asked by the District Judge if he knew where he would go to when he died if he told a lie. "No," said the boy, "nor you don't nuther." He was declared not a competent witness, though it is altogether likely he would have been as honest in answering the lawyer as he was in answering the judge.

You may remember the scene in "Bleak House" where the little crossing-sweeper is brought up to give evidence in an inquest, and on being questioned deposes as follows :

"Name, Jo, nothing else that he knows on, knows a broom's a broom, and knows it's wicked to tell a lie. Dou't recollect who told him about the broom or the lie, but knows both. Can't exactly say what'll be done to him arter he's dead if he tells a lie, but believes it will be something very bad to punish him, and serve him right; and so he'll tell the truth.

" 'This won't do, gentlemen,' says the coroner, with a melancholy shake of the head.

" 'Don't you think you can receive his evidence, sir? says an attentive jurymen.

" 'Out of the question,' says the coroner. 'You have heard the boy,— can't exactly say. Won't do, you know. We can't take that in a court of justice, gentlemen. It's terrible depravity. Put the boy aside,'

" 'Boy put aside to the great edification of the audience.'"

A young man, accompanied by a middle-aged woman

and two children, registered at the Grand Union Hotel in this city. They were joined in the evening by another young man. The brothers, as it proved to be, were arrested for fighting in their room at the hotel. Complaints were filed against both boys for disturbing the peace, and in the morning they had their trial before the District Judge.

The testimony developed a sad story of domestic strife, and in brief it was as follows :

The names of the young men were William and Dalise Chrisman, and that of the woman, Bayswater. Some eight years ago, William Chrisman met her and fell in love with her. She was a *detached* widow, her divorced husband being living; and when Chrisman and Mrs. Bayswater went to be married, they told their story, being Catholics, and the priest refused to marry them, Catholics not allowing the marriage of a divorced man or woman. This apparently made no difference to Mrs. Bayswater and Chrisman, and they went to live together as man and wife. She bore him two children, both girls. They lived happily together until two years ago, when Chrisman left her. Mrs. Bayswater keeps a tavern in San Francisco. After leaving her, Chrisman came east, and went to work on a gentleman's place, and has continued in his employ ever since. She has frequently written Chrisman, begging him to go back to her, and this was the purpose of this visit, the brother accompanying her to beg his brother to do right and return to his children. In a dispute which arose, the lie was passed, and a fight ensued.

In court William Chrisman seemed to be bitter against his brother and the mother of his children. He accused her of wrong doing, and she denied it vehemently, retorting with other accusations. This was kept up until finally the mother said, in answer to some charge made by Chris-

man, "Don't believe him, Judge. I have raised my children as they should be."

This was all the judge wanted, and he said, "I'll test it, madam;" and, turning to the youngest girl, a little tot not more than three years old, he said, "Can you say your prayers?" Then ensued a most touching scene. The little girl, without a word, climbed from her chair, knelt on the floor of the court-room, with the policemen, spectators, judge, and her father and mother around her, and, folding her tiny hands, and lifting her eyes to heaven, she made the grandest defense of a mother's word possible. Slowly but distinctly, and without a tremor in her voice, the innocent little darling, born with the stain of shame upon her, and discarded by her father, lisped in childish accents the Lord's Prayer. As she proceeded, utterly oblivious to her surroundings, and thinking only of Him who said, "Suffer little children to come unto me, and forbid them not," as she uttered that prayer, which many in the court-room had not heard for years, strong men bowed their heads and sobbed aloud. Finishing the prayer, she added, "God bless papa and mamma and Uncle Dalise, Amen," and rose from her knees.

The case was settled, and had William Chrisman sworn a thousand oaths that his wife was bad, he would have been disbelieved.

It was several minutes before any one spoke, and then the judge fined the two brothers fifteen dollars each, and dismissed the court.

I am a strong believer in circumstantial evidence. Now and then there is newspaper talk of this or that person having been sent to his death while innocent of the crime, and young attorneys will shake their heads, and declare that circumstantial evidence is a dangerous weapon; but I am satisfied that it punishes a thousand guilty men where

it wrongs one. If the innocent suffer through this cause, they also suffer through perjury of witnesses and other ways.

In a small town near Pittsburg, Alexander Killen had been charged with robbery and the murder of Mrs. Rudert. It was shown conclusively that one of the robbers who killed Mrs. Rudert carried a yellow satchel; and when they broke the glass in the window of the store which they robbed, the watches and jewelry were scraped into it. In their hurry to get away, they also got some of the broken glass into the satchel.

After the arrest of Killen, there was found hidden in an old wash-boiler in his job-boat a yellow satchel similar to the one carried by the robbers. In it there were two small pieces of glass, scarcely larger than pinheads. They had become fastened in a corner, but were detected by one of the shrewd men who found the satchel. They were preserved with great care.

At the trial, when the time came for introducing them, the District Attorney laid them on a sheet of paper, and passed them into the jury-box. That was not satisfactory, and a powerful microscope was brought in, and each of the jurors examined the bits of glass. Two glass-workers were on the jury, and they were satisfied beyond doubt that the particles were from window-glass, and not pieces of a bottle, which Killen claimed to have broken in his satchel some time before the murder. As the other jurors knew that the expert could easily detect the difference between flint and window-glass, they accepted the verdict of the two glass-blowers, and Killen was convicted of murder in the first degree.

Although I have strong faith in circumstantial evidence, will offer one case which came under my personal knowledge in which it went astray.

Nearly a quarter of a century ago a young man, who had been a soldier in the Confederate service during the war of the rebellion, returned to his home in Bullet County, Ky. He has invested money in lands in Texas and Kansas, and had some other money besides. We will call him Sanders, though that was not his name. A short distance from the county-seat lived a young lady with whom Sanders fell in love. The girl had two or three other admirers, and there was more or less hard feeling between the men. On one occasion, when all met at the house, there were some hot words between Sanders and a young man whom we will call Hardin. There would have been a fight but for the girl's interference. Both men had something to say about getting even with each other, and their expressions had great weight a few weeks afterward, when related by witnesses in the court.

The unpleasantness occurred on a Sunday afternoon. On the following Wednesday afternoon Sanders started out on horseback to again visit the girl. This was the last ever seen of him alive. The horse came back next morning, with blood on the saddle, and the matter was reported to the authorities, and a search instituted. Sanders had not reached the farmhouse that day. It was nearly a week before his body was found in a thicket ten rods off the road. He had been shot through the heart as he was riding along, and his body had been carried into the woods and hidden. It had been robbed of all personal property, and coat, vest, and shoes were missing. For several days the people believed the object of the murder was robbery until it had been learned what passed between Sanders and Hardin. Facts came out very curiously. Two men had been found who had seen Hardin near the spot where the murder was committed, and about the time.

The young lady was a powerful witness against Hardin.

On the evening of the murder he had come to the house in an excited state of mind. He looked pale, and there was a fresh cut on his cheek, which he said he had got by a fall; but he seemed ill at ease. A week after, there seemed sufficient evidence to warrant his arrest. He had gone to the home of his uncle, about ten miles off, and it was there he was arrested.

He was sitting on the porch alone when the sheriff came up. As soon as he announced his errand, he grew very white, and gasped out:

"What am I charged with?"

"Murder."

"Good God! But who—who—?"

"The murder of Sanders on the afternoon of the 15th. You know where the body was found."

"I'll go with you willingly. I had no more to do with his death than you."

He was placed in jail, and everybody believed him guilty. He was about twenty-four years old, but did not look more than nineteen, and very slightly built. He stoutly declared his innocence, but admitted he was near the spot where Sanders was killed, but denied having seen the victim that day.

His case came to trial at Louisville. They had nothing but circumstantial evidence, but were well satisfied with that. Robert Baird was prosecuting attorney, and made a powerful speech. Evidence, what could be stronger? Known to be jealous of Sanders, and his enemy; seen near the spot; takes no part in the search; steals away ten miles to let the matter blow over; furnishes every proof in his demeanor that he is guilty,—face cut, clothes torn and muddy. Previous good character and general reputation were of course urged in defence, but the lawyer might as well have kept silent. The jury was out about thirty

minutes, and when a verdict of "Guilty" had been rendered, the judge sentenced the prisoner to be hanged. The day of the execution was set about eight weeks ahead.

It was as plain as day that the verdict and sentence were a stunning surprise to Hardin, though expected by every one else. A guilty man could not have counterfeited his amazement. He acted as one just aroused from sleep.

I had been strongly interested in this case, during the trial had read carefully over every word of evidence. If Hardin did not murder Sanders, who did? It seemed to me that every one accepted the theory of his guilt and left unworked other clues. There was a point in the evidence that struck me as lame. Sanders weighed one hundred and eighty pounds, and Hardin was very slight, and would'nt balance one hundred and twenty-five. He had no more muscle than a woman. And the question was how he got the body from the road into the thicket. There had been rain the day before, and the ground was soft. The prints of feet were discovered, and they were too large for Hardin. Had he a confederate? This seemed unlikely. They could not find that the body had been dragged.

During the time Hardin remained in jail, from the passing of sentence to the time allotted for his execution, I visited him frequently, and was perfectly satisfied of his innocence, and so also were others. The Young Men's Christian Association, the physician, and several other officers of the prison, with a few benevolent ladies, co-operated together in holding religious service every Sabbath afternoon in the prison. We had become well acquainted with the prisoner, and determined to use every effort to have his sentence commuted to life imprisonment. There was only now but a few days, perhaps a week, left before his execution. We wrote a petition to the Governor, and had

nearly two thousand signatures. In the meantime, we had some strong articles written for the daily papers, showing up the weakness of the testimony and the strong points for the defence, so that by the time the petition reached the capital, the Governor had read the arguments, and was prepared for what was coming. We had the satisfaction of having our efforts rewarded. The Governor commuted his sentence. After he was taken to the state prison, the efforts of his friends did not stop, but they employed a detective to visit the neighborhood of the murder, and closely follow up every clue, one particular point of their investigation being directed as to who might have been in the neighborhood on the day of the murder. After considerable time, it was discovered that a boat in which were several colored men had tied up to the bank of the Ohio River, about half a mile from where Sanders was shot. It had come the day before, and left the evening of the tragedy. Some of the occupants of the boat had been seen chasing a hog in the woods. If these people had done the killing, there were enough of them to carry the body to the thicket. The boat had gone down the river, and the detective proceeded down, following along the bank, in hopes of hearing something. This was five months after the murder, but almost immediately he struck a clew. The house-boat had stopped there, and in a fight on board a colored boy, about sixteen years old, had been shot in the knee and flung overboard. He was rescued by a passing skiff and given up to the authorities. His leg had to come off, and he was still in the hospital jail.

The detective learned that he was cool and close-mouthed, and went to see him. As he leaned over him, he said:

"Sam, I have bagged the whole crowd and got most of the money. They are going to swear the murder on to you."

"Swar it on me!" he exclaimed, rousing up in an instant. "Why, sir, I didn't eben dun know about it till arter we had shoved off."

"How much money did you get?"

"Not a two-bit piece, sah. Ole Pete and dat man Hukins dun said dey would keep it all dereselves. Dat's what de row was about."

The boy in jail who answered to the name of Sam said that two of the men were after a pig, when Sanders came in sight, and the plan to kill and rob him was formed in a moment. They despoiled the body, hid it in the thicket, and got away unseen and unsuspected. The house-boat had been run down in the night by a steamer, just above a little town on the bank of the river, and it was believed that all the crew were drowned. Sam, however, was all the witness needed on the stand. Hardin was of course released, but the poor fellow died shortly afterward.

It is not always possible for justice to arrive at the exact truth with respect to a specific act by examining a chain of circumstances; but it is always possible to arrive at a safe conclusion with respect to a man's character by examining his life. Though we may not be competent to distinguish in all cases between the ethically sound and the not sound, even where evil should have no place. If the case is too complex, too profound in its difficulties, to be wholly comprehended, truth, justice, and mercy are terms about which we should have no disputes.

The application of principles of all law and government is to restore, and not merely to punish, the erring.

THE FUTURE OF RAILWAY SURGERY.

BY CLARK BELL, ESQ., PRESIDENT MEDICO-LEGAL CONGRESS
OF NEW YORK.

Whatever may be said or thought of the claim that medicine was not an exact science, by its enemies, its devotees, or its friends; no one can, in the light of the wonderful progress made in modern surgery, in the single generation since the American Civil War, deny or question even the scientific precision now attained by its great leaders and exponents in the practice of surgery.

The steps by which the science of surgery has advanced in our day and generation have been grand and stately, as they have been effective; and as valuable to mankind, as they have been wonderful—yes, almost marvelous in results.

In 1861 a gun-shot wound of the abdomen was regarded as almost necessarily fatal; to-day, as illumined and illustrated by surgeons Nicholas Senn, J. N. Hall and other masters of this branch of surgery, an explanation would be rightfully and lawfully demanded of the surgeon who lost such a case, of the reasons of his failure.

In abdominal surgery, especially in woman, in my boyhood the ablest and most successful surgeon in western New York, where I then resided, told me that he frankly stated to his patients, before operation, that the risk of life or death was almost even in cases of ovariectomy.

See that great army of suffering women of the past, that with a courage higher than that of the soldier who faces death in battle, because without its stimulating excitement,

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has faced and met death under the knife of the surgeon, who was then ignorant of what is now universal knowledge in the practice of the art.

We lament the ignorance and superstition which swelled the vast army beyond the Styx ; of widows burned on the funeral pyres of their dead husbands ; but is that concourse, vast as it may seem, greater than the mothers and daughters of our forefathers, who thus perished for the want of that light in surgery, whose rays are to-day as effulgent as the sun ?

I remember Mr. Lawson Tait, announcing in the *British Medical Journal*, not a great many years ago, that brilliant record of six hundred cases of abdominal surgery in women, without the loss of a single life ; and to-day, the properly equipped and skilful surgeon, who lost such a case by his own fault, could be made to respond in damages, if sued for mal-practice, as all now agree he should be made responsible.

Electricity has thrown upon surgery a brilliant, a marvellous, a penetrating and a wonderful light, of incomparable value, and incalculable worth.

With its magic lantern, it has illumined much of the human body to the eye of the surgeon, hitherto veiled, dark, and inaccessible, while the new Röntgen ray, or its recently discovered properties, opens the outer door of a vestibule to a yet unexplored gallery of human knowledge, in surgical science, as amazing in its results, even thus far reached, as it is counter to the generally hitherto accepted views of man. We are facing some marvellously strange facts just now in physics, when we find a light that passes through solids and metals at will ; but which, with great difficulty, penetrates glass, through which the light of the sun passes readily, and we are considering whether we shall recast our definitions of the word "opaque" as applied to matter, and are searching for that unknown, mysterious,

yet silent force, that stronger than gravity and over-powering, and in spite of it, makes the shoot of grain grow and stand erect, and advance upward like the tree, which under the nurturing hand of nature produces, when undisturbed by extraneous influences, some of the most beautiful and graceful objects in the created universe.

All the sciences act as hand maidens to surgery, and pour into her lap the wealth of their discoveries.

Chemistry, which stands as a base and corner stone for the whole structure of the physical sciences, the prolific mother of the wealth of the whole world, stands to surgery, as he who rolled away the stone from the sepulchre two thousand years ago, opening the door through which the light comes forth to glorify and illumine, and by which we see that before hidden and unknown.

It is doubtful if there is anything that really exists, which can properly be called new. Whatever is always was and must be old and from the beginning.

Chemistry knows all. To her nothing is new. She simply, now and then, withdraws the veil which obscures the imperfect human vision and reveals to her favorites, little by little, that which she may have before blazoned at noonday, in the pre-historic times, to her favored priests who then kept alive the sacred fires upon the altars within her temples.

She has her favorites and she lifts a corner of the curtain to such superb students as Edison, Tesla and Röntgen, from which come glances and flashes of a light incomparable and brighter than the noonday sun, to teach us how limited is the sum of present human knowledge, of the great truths of nature, and how little the wisest man does really know of what may be some day attainable and general human knowledge.

Truths are truths, entirely independent of human ap-

preciation or perception, and the limitations of human knowledge do not offset, change, or even modify them.

The knowledge of a few of the mysteries of electricity furnished to mankind by the wizard Edison, were truths before, and would have been truths had Edison died in his boyhood; and the quality of the cathode ray was neither changed nor modified by the genius of Röntgen in its discovery.

The microscope, the spectroscope, the marvels of photography, the ripe labors of the bacteriologist, the whole field of advance in antiseptic surgery, the wonderful inventive genius of man in the construction and adaption of instruments and appliances for surgical work, electricity as a force in the delicate mechanics of surgery, and notably of the saw, with its almost incredible velocity, so admirable in delicate operations upon bone and cartilage, and of producing at will, and in exact locations, intense heat, not to enumerate many aids now at the ready surgeon's hands, place the surgeon of to-day on an immeasurable height above even the surgeon of 1861.

The railway surgeon then enters a field quite new in the domain of surgery in the past, but he is armed *cap à pie* and he has a great future.

The first railway was built after the close of the first quarter of our century. It was a slow growth at first, but has become now, upon the American continent especially, the foremost factor in development and in the advancing march of civilization. Its surgery has a field wholly its own. It represents and protects an enormous class, whom it treats in cases of sickness or accident, and whom it has to regard as well, in protecting against accident, and in guarding so far as possible, by precautionary measures, the employees of the railways and the great public who travel upon them.

The mission of railway surgery should be :

1. To arrive at the highest stage of excellence in ability to treat the injured.

2. To establish the Railway Hospital as a fixed system on railway service, the better to execute the first great duty and to give to the most exposed class, the employee, the very highest and best surgical service combined with the greatest economy to both railway and sufferer, be he employee or passenger.

3. Prevention of injury upon railways so far as possible.

4. Improved sanitary measures in the interest of the general public in the transportation of passengers, to prevent infection or the spread of contagious diseases.

SEXUAL INVERSION IN RELATION TO SOCIETY AND THE LAW.

BY DR. HAVELOCK ELLIS, HONORARY VICE-PRESIDENT MEDICO-LEGAL CONGRESS, N. Y.; HONORARY FELLOW OF THE CHICAGO ACADEMY OF MEDICINE.

The average man regards all homosexuality with unmitigated horror and disgust. He may indeed have been taught at school to venerate Alexander the Great, Epaminondas, Socrates and other antique heroes, of whose inverted proclivities he has vaguely heard; but they are safely buried in the remote past and do not affect his scorn of homosexuality in the present. There is undoubtedly a deeply-founded reason for this horror and disgust, although in England, at all events, it has only appeared during the last few centuries. Our modern attitude is sometimes traced back to the Jewish law, and its survival in St. Paul's opinion on this matter. But the Jewish law itself had a foundation. Whenever the enlargement of the population becomes a strongly-felt social need—as it was among the Jews in their exaltation of family life, and as it was when the European nations were constituted—there homosexuality has been regarded as a crime, even punishable with death. The Incas of ancient Peru, in the fury of their detestation, even destroyed a whole town where sodomy had even been detected. I do not know if it has been pointed

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out before that there seems to be a certain relationship between the social reaction against homosexuality and against infanticide. Where the one is regarded leniently or favorably, then generally the other is also; when the one is stamped out, the other is usually stamped out. Even the forceful Normans could not go against the stream and obtain recognition for their strong homosexual instincts anywhere in Europe, except perhaps to some extent in England, where legislation against sodomy has a somewhat special and recent origin.

It was in the sixth century, at Rome, that the strong modern opposition to homosexuality was first clearly formulated in law. The Roman race had long been decaying; sexual perversions of all kinds flourished; the population was dwindling. At the same time christianity with its Judaic-Pauline antagonism to homosexuality was rapidly spreading. The statesmen of the day, anxious to quicken the failing pulses of national life, utilized this powerful christian feeling. Constantine and Theodosias both passed laws against homosexuality, ordaining as penalty the *vindices flammæ*, but their exactments do not seem to have been strictly carried out. In the year 538, Justinian professing terror to certain famines, earthquakes and pestilences, in which he saw the mysterious "recompense which was sweet," prophesied by St. Paul, issued his edict condemning unnatural offenders to torment and death, "lest as the result of their impious acts" (as the preamble to his Novella 77 has it), "whole cities should perish together with their inhabitants; for we are taught by Holy Scripture that through their acts cities have perished with the men in them." This edict constituted the foundation of legal enactment and social opinion concerning this matter in Europe for thirteen hundred years. In France the *vindices flammæ* survived to the last; St. Louis had

handed over these sacriligious offenders to the church to be burned; even in 1750 two pæderarts were burned in the Place de Greve, and only a few years before the Revolution a Capuchin monk named Pascal was also burned.

After the Revolution, however, began a new movement which has continued slowly and steadily ever since, though it still divides European nations into two groups. Justinian, Charlemagne and St. Louis had insisted on the sin and sacrilege of sodomy as the ground for its punishment. It was doubtless largely as a religious offence that the code Napoleon omitted to punish it. The French law makes a clear and logical distinction between crime on the one hand, vice and irreligion on the other, only concerning itself with the former. Homosexual practices, carried on in private, between two adult consenting persons, whether men or women, are absolutely unpunishable by the code Napoleon and by French law of to-day. Only under these conditions does the homosexual act come under the cognizance of the law as a crime: (1) when there is *outrage public e la pudeur*, i. e. when the act is performed in public or with a possibility of witnesses; (2) where there is violence or absence of consent, in whatsoever degree the act may have been consummated; (3) when one of the parties is under age or unable to give valid consent; in some cases it appears possible to apply act 334 of the penal code, directed against habitual incitation to debauch of young persons of either sex under the age of 21.*

This method of dealing with unnatural offences has spread widely through Europe, in the early part of the century because of the political influence of France, and more recently because such an attitude has commended itself on its merits. In Belgium and in Holland the law is similar to that of the code Napoleon, as it is also, I be-

*See Chevalier, L'Moersion Servede, 1893, p. 431, *et seq.*

lieve, in Spain. The new Italian code of 1889 has also adopted the provisions of the French code. In Switzerland the law is a little vague and varies slightly in the different cantons, but it is not severe, the general tendency being only to inflict brief imprisonment when serious complaints have been lodged, and cases can sometimes be settled privately by the magistrate.

The only European countries in which homosexuality *per se* remains a penal offence appear to be Germany, Austria, Russia and England. In several of the German States, such as Bavaria and Hanover, simple homosexuality formerly went unpunished, but when the laws of Prussia were in 1871 applied to the new German Empire, this ceased to be the case, and unnatural carnality between males became an offence against the law. This article of the German code (§175) has caused constant discussion and much practical difficulty, because although the terms of the law make it necessary to understand by *widernatürliche Unzucht* other practices beside *pædicatio*, not every homosexual practice is included; it must be some practice resembling normal coitus. There is a widespread opinion that this article of the code should be abolished; it appears that at one time an authoritative committee, comprising names of such weight as Von Largenbeck, Vischer, Bardeleben and A. W. Hoffmann, pronounced in favor of this step and their proposition came near adoption.

The Austrian law is somewhat similar to the German, but it applies to women as well as to men. This is logical for there is no reason why homosexuality should be punished in men and left unpunished in women; but the Austrian scheme of penal reform proposes to omit reference to women and at the same time greatly to diminish the maximum punishment assigned to this offence in men. In Russia the law against homosexuality appears to be

very severe, involving banishment to Siberia and deprivation of civil rights, but it can scarcely be vigorously executed.

The existing law in England is severe but simple. Carnal knowledge *per anum* of either a man or a woman or an animal is (under the 24th and 25th Vict. c. 100, s. 51) a felony, punishable by penal servitude for life as a maximum and ten years as a minimum; the attempt at such carnal knowledge is punishable by ten years penal servitude. The criminal law amendment act of 1885 goes beyond this and makes even "gross indecency" between males, however privately committed, a penal offence: "any male person who in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for any term not exceeding two years, with or without hard labor." The criminal law amendment act is in many respects an admirable exactment; to it we owe the raising of the age at which it becomes lawful for a woman to consent to sexual intercourse from over twelve to over sixteen. But the act appears to have been somewhat hastily carried through, and many of its provisions, as well as its omissions, have been justly subjected to severe criticism. The clause from which I have quoted is specially open to criticism. With the omission of the words "or private," the clause would be sound and in harmony with the most enlightened European legislation; but it must be pointed out that an act only becomes indecent when those who perform it or witness it regard it as indecent. The act which brought each of us into the world is not indecent; it would become so if carried on in public, or detailed in a court of law. If

two male persons who have reached years of discretion consent together to perform some act of sexual intimacy in private, no indecency has been committed. If one of the consenting parties subsequently proclaims the act indecency is doubtless created, but it seems contrary to good policy that such proclamation should convert the act into a penal offence. "Gross indecency" between males usually means some form of mutual masturbation; no penal code regards masturbation *per se* as an offence, and there seems to be no sufficient reason why mutual masturbation shall be so regarded.* The main point to be ensured is that no boy or girl who has not reached years of discretion should be seduced or abused by an older person, and this is equally well guaranteed on the basis introduced by the code Napoleon. However shameful, disgusting, immoral, and indirectly, even anti-social, it may be for two adults of the same sex to consent together to perform an act of sexual intimacy, there is no sound or adequate ground for constituting such act a penal offence by law.†

One of the most serious objections to the legal recognition of private "gross indecency" is the obvious fact that only in the rarest cases can such indecency become known to the police, and we thus perpetrate what is very much like a legal farce. "The breaking of few laws," as Moll truly observes regarding the German law, "so often goes unpunished as of this." It is the same in England, as is amply evidenced by the fact that of the British sexual in-

*This point is brought forward by Dr. Leon de Rode in his report on "L'Moersion Genitale et la Legislation," prepared for the Third (Brussels) Congress of Criminal Anthropology in 1892. The same point was frequently insisted on by Symonds.

†This conclusion is in harmony with that of all the German authorities, such as Moll, Eulenburg and Krafft-Ebing, who have dealt with this matter. The chief exception known to me is Dr. Hoche (*Neurologisches Centralblatt*, Jan. 1896,) and his desire to maintain the criminality of homosexuality seems to be grounded in the fear that otherwise it would be regarded as a disease, whereas he regards it as usually occurring in normal and healthy persons.

verts, some thirty in number, whose histories I have obtained, not one, so far as I am aware, has ever appeared in a police court. This impunity can only lead to a contempt for law generally. Such an attitude is distinctly opposed to good social polity.

It may further be pointed out that legislation against homosexuality has no clear effect either in diminishing or increasing its prevalence. This must necessarily be so as regards the kernel of the homosexual group, if we are to regard a considerable proportion of cases as congenital. In France, homosexuality *per se* has been untouched by the law for nearly a century, yet it abounds, chiefly, it seems, amongst the lowest classes in the community; but, although the law is silent, social feeling is strong, and when—as has been the case in one instance—a man of undoubted genius has had his name associated with this perversion, it becomes difficult or impossible for the admirers of his work to associate with him personally. Very few cases of homosexuality have been recorded in France among the more intelligent classes—I do not say it does not exist among them—and the literature of homosexuality is then little more than the literature of male prostitution, as described by police officials was carried on largely for the benefit of foreigners. In Germany and Austria, where the law against homosexuality is severe, it abounds also, probably to a much greater extent than in France; it certainly asserts itself more vigorously; for a larger number of cases have been recorded than in any other country, and the German literature of homosexuality is very extensive, often issued in popular form, and sometimes enthusiastically eulogistic.* In England the law is exceptionally severe;

*Krafft-Ebing's *Psychopathia Sexualis* cannot fairly be regarded as eulogistic and popular in form; it has, however, has a very wide and unrestrained sale. According to Dr. Benedikt (who is, however, it must be noted, a brother professor at Vienna) this book is used as a text-book in German brothels.

yet according to the evidence of those who have an international acquaintance with these matters, homosexuality is fully as prevalent as on the continent; some would say that it is more so. It cannot, therefore, be said that legislation enactments have very much influence on the prevalence of homosexuality. The chief effect seems to be that the attempt at suppression arouses the finer minds among sexual inverts to undertake the enthusiastic defence of homosexuality, while coarser minds are stimulated to cynical bravado.

But while the law has had no more influence in repressing abnormal sexuality than—wherever it has tried to do so—it has had in repressing the normal sexual instinct, it has seemed to foster a very serious and distinctly anti-social offence. What is called blackmailing in England, *chantage* in France, *Erpressung* in Germany—in other words the extortion of money by threats of exposing some real or fictitious offence—finds its chief frill of activity in connection with homosexuality. It is not easy to measure the extent to which blackmailing prevails, but whenever homosexual offenders are brought into the courts, evidence is usually elicited regarding the large sums of money paid to prevent exposure. No doubt the removal of the penalty against simple sexuality would not abolish blackmailing, as the existence of this kind of *chantage* in France shows, but it deprives it of its most powerful instrument of torture and renders its success less probable.

On all these grounds, and taking into consideration the fact that the tendency of modern legislation generally and the consensus of authoritative opinion in all countries are in this direction, I am of opinion that neither “sodomy,” (i. e. *immissio membri in anum hominis vel mulieris*) nor “gross indecency” ought to be penal offences, except under certain special circumstances. That is to say that if two

persons of either or both sexes, having reached years of discretion;* privately consent to practice some perverted mode of sexual relationship, the law cannot be called upon to interfere. It should be the function of the law in this matter to prevent violence, to protect the young, and to preserve public order and decency. Whatever laws are laid down beyond this must be left to the individuals themselves, to the moralist and to social opinion.

That social opinion—law or no law—will speak with no uncertain voice is sufficiently evident. I have already referred to the state of things in France where the law has been placed in what must be regarded as a satisfactory basis for very nearly a century. Opinion in England may be gauged by the almost unspeakable disgust, which from time to time (as during the trial of Oscar Wilde) finds expression in the newspapers. I do not know whether it has been pointed out that in the evolution of culture the popular attitude towards homosexuality has passed through three different stages, largely corresponding to the stages of savagery, barbarism and civilization. At first it is primarily an aspect of economics, a question of under-population or over-population, and is forbidden or allowed accordingly. Then (as throughout the middle ages, from the time of Justinian) it becomes primarily a matter of religion, and thus an act of sacrilege. Now we hear little either of its economic aspects, or of its sacriligiousness, it is for us primarily a disgusting abomination; i. e. a matter of taste, of æsthetics, and while unspeakably ugly to the majority, it is proclaimed as beautiful by a small minority. I do not know that we need find fault with this æsthetic method of judging homosexuality.† But it may be pointed

*Krafft-Ebing would place this age not under 16, the age at which in England girls may legally consent to normal sexual intercourse. (*Psychopathic Sexualis*, 1893, p. 419). It certainly should not be lower.

†The modern transition from the religious to the æsthetic point of view is justified (from the Public School point of view), by the Rev. J.

out that it does not lead itself to legal purposes. To indulge in violent denunciation of the disgusting nature of homosexuality, and to measure the sentence by the disgust aroused, as one or two judges in England have lately done, or to regret, as one English judge is reported to have regretted when giving sentence, that "gross indecency" is not punishable by death,* is to import utterly foreign considerations into the matter. The same judges would certainly never allow themselves to be consciously influenced on the bench by their political opinions. Yet æsthetic opinions are quite as foreign to law as political opinions. An act does not become criminal because it is disgusting. To eat excrement, as Moll remarks, is extremely disgusting, but it is not criminal. This confusion, even in the legal mind, between the disgusting and the criminal is interesting psychologically, and it is additional evidence of the desirability of removing the legal penalty from homosexuality. At the same time it shows that social opinion is most amply adequate to deal with the manifestations of inverted sexuality.

M. Coilson, (*Journal of Education*, 1881): "I have not found," he says, "nor have others told me that they have found, that direct religious teaching exercises much permanent influence on young boys in protecting them and rescuing them from these faults. * * * It does seem to be indicated by experience, that it is better, with young boys, to treat these faults as disgusting than as sinful."

*Yet the existing sentence is extremely severe. A well-informed writer thus sums up what it means:—"Two years' hard labor is the severest sentence, while it lasts, known to the English criminal law. It is a form of punishment which is never inflicted on convicts sentenced to penal servitude, inasmuch as it is calculated to produce madness amongst them. Nine months' separate confinement is as much as a convict gets, and is considered as much as his mind can stand. The Prisons Committee report that even nine months' separation often injuriously affects the nervous system, and recommend a reduction of the time. A prisoner under two years' hard labor may be kept during the whole time in the solitude of his cell, with the exception of one hour a day. During a portion of his detention he is allowed no ordinary reading books, has a wooden plank as a bed, and has to engage in occupation which the late chairman of the Prisons Board declares to be 'irritating, depressing, and debasing to the mental faculties, and decidedly brutalising in its effects.' So severe is this form of sentence considered to be that many judges will not inflict it at all, and last year [1894] in a total of 160,000 short sentences only thirty-four persons were committed for two years by the ordinary criminal courts."

SOME EXPERIMENTS RELATING TO THE AFTER
DEATH ABSORPTION OF STRYCHNIA, WITH
THE RESULTS OF FIFTY TOXICOLOGI-
CAL ANALYSES.

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Owing to the meagreness in the number of experiments in former work, which was commenced as early as 1884, relating to the "After death absorption of Strychnia" from the stomach, it was thought necessary in order to become possessed of indisputable evidence, which would tend to strengthen the position of the toxicologist, and prove conclusively to the entire satisfaction of critical counsel, judge and jury, to reinvestigate the subject; extending our observations to the rectum, thoracic and abdominal cavities, and attempting to recover the lethal agent, particularly from the brain, spinal cord and urinary bladder. Some years ago, the late Dr. John J. Reese, requested me to continue my experiments in this direction, reasoning, that as it had been proven that strychnia diffused from the stomach, and had been recovered from various organs, it was not impossible that this process would take place in a like manner, when the alkaloid would be deposited in other localities.

It having been experimentally shown in 1890, that Strychnia (1. *Medico-Legal Journal*, 1889, p. 357, 2. *Medico-Legal Journal*, 1890, p. 11,) diffuses itself through

organic tissues, removed from the body, and inasmuch as the present results clearly reveal the recovery of the alkaloid from remote organs, and fluids after being deposited either in the stomach, rectum, abdominal and thoracic cavities, the most skeptical should certainly now be convinced of its diffusive power.

The strychnia solutions were introduced into each animal in order to include every possible method of contamination, and also to note the rapidity of diffusion.

1. To simulate the procedure of embalmers, a solution was injected into the *abdominal cavity* of a rabbit and allowed to remain ten days.

2. So as to closely imitate the scheme of a designing person, a solution was deposited in the *stomach* of one animal, and allowed to diffuse six days; and two solutions into the lower *intestinal canals* of two rabbits, which were buried respectively twelve and twenty-one days.

3. To strengthen the already discovered diffusive property of strychnia, a solution was also placed in the *thorax* of another rabbit, the solution being permitted to saturate ten days.

4. To ascertain if it were possible for strychnia to contaminate organs and sections in three days after being deposited in the *stomach*, a solution was introduced into this viscus of another animal.

Regarding the differential diagnosis between poison absorbed before, and that introduced after death, it is with much regret that we are forced to admit that little has been attempted and far less accomplished. As long ago as 1888, I called the attention of the scientific world to a probable method, when I stated "It must be admitted that there are very rare opportunities for the toxicologist to detect a discriminate method between ante and post mortem poisoning; but the microscopist with his knowledge of the

histological and pathological appearance of organs, may be able to discover by rigid searching with his microscope, some permanent appreciable difference; for it is not improbable that there may take place certain specific changes in the histological constituents of an organ, due to the deposition of a substance like arsenic; through the medium of the blood circulation during life, which changes would not manifest themselves as the result of an after-death deposition." *Medico-Legal Journal*, 1888, p. 506.

May we not look forward to cathodal photography throwing a ray of light upon these histological structures? The following method was employed in every instance for the recovery of the strychnia. "The organ is placed in an evaporating dish and cut into small pieces, the mass rendered sufficiently liquid by water, some strong alcohol is added, and the whole well stirred and acidulated with sulphuric acid in the proportion of about eight (8) drops of concentrated acid to each fluid ounce of the mixture. It is then digested at a temperature of about 180 degrees, Fah., with frequent stirring for half an hour or longer, and after cooling, strained through a fine linen cloth, the residue well washed with acidulated water and strongly pressed. The strained liquid, including the washings, is concentrated on a water-bath, and when much organic matter has separated, again strained; these operations being repeated until the fluid is reduced to a small volume. This is nearly neutralized with caustic potash, taking care that the mixture still retains a decided acid reaction; then filtered and the filtrate evaporated on a water-bath until only a few drops of liquid remains. When the residue is well cooled it is well stirred with half an ounce of concentrated alcohol, which will dissolve in the form of a sulphate, any strychnia present, while the sulphate of potash, formed from the sulphuric acid and potash added, together with more or

less of the foreign organic matter will remain undissolved.

The alcoholic solution after filtration is evaporated on a water-bath to almost dryness, and the residue well stirred with a small quantity of pure water, and the filtered solution rendered slightly alkaline by potash or soda. It is then agitated with pure chloroform in the usual manner and the fluid, after careful separation, allowed to evaporate spontaneously." (Wormley, *Micro-Chemistry of Poisons*.)

In every experiment the spinal-cord and brain were removed before either the thoracic or abdominal cavity was opened. The spinal vertebræ being exposed by making an incision along the median line of the back, and the cord removed by cutting through the transverse processes. The cranial cavity then being opened by removing the vault of the cranium. It was thought best to adopt this procedure in order to eradicate any doubt of contamination of these important nerve centers by contact with soiled hands, abdominal or thoracic fluid and organs. The organs and secretions were placed in separate clean glass jars for chemical analysis.

Tests employed in the detection of Strychnia.

1. *Bitter taste*.—Strychnia is intensely bitter. Wood says, "It will impart a very intense taste to twenty thousand times its weight of water."

2. *Color test*.—By some it is claimed the color test may prove fallacious, a strychnia like ptomaine sometimes giving a positive reaction. In employing this test it is always well to make a solution of the suspected residue, remaining after the chloroform has evaporated spontaneously, placing one drop on a clean porcelain slab, gently heating to dryness, adding a drop of C. P. Sulphuric acid and then drawing through the acid mixture a fragment of the oxidizing agent, when if strychnia is present in any appreciable amount, the play or flash of colors will be decided; if

the quantity of the alkaloid is very minute (merely a trace) only a dirty green color results. This method is absolutely necessary, for in many instances where this test is applied to a strychnia solution no reaction occurs. Organic matter also interferes with the reaction. The suspected residue should be as free as possible from foreign organic matter. Several chemical substances may be employed as oxidizing agents. Otto uses bichromate of potash; Davy the red prussiate of potassium and Marchand, the peroxide of lead. In our work Otto's test was most generally employed.

3. *Physiological test.*—We deemed it necessary in order to become possessed of incontrovertible evidence of the diffusive power of strychnia to also employ other tests, the best known and most reliable of which is the frog test, which batrachian is powerfully impressed by, and very sensitive to strychnia, developing tetanic convulsions, opisthotonos, spasmodic leapings, jerking of the legs, claspings of the fingers and distortion of the muscles. A blueness of the skin especially on the extremities, makes its appearance very often, and in our experiments, when this color became intense, the frog was longer in dying. The convulsions, once started, will manifest themselves after periods of quiet jarring of the animal, or even a breath of air will often reproduce them. The attacks and remissions succeed each other, until "the frog dies from paralysis of the motor nerves."

(1.) Wood. "Therapeutics, Materia Medica and Toxicology."

EXPERIMENT NO. I. •

White rabbit weighing four pounds, *one hour* after death from chloroform, was injected into the *rectum* with 100 c. c. of cold water holding in suspension one gram of Sulphate of Strychnia. Length of interment, *twelve days*,

The spinal cord, brain, lungs, and heart, (in situ) kidneys, stomach, liver, ileum and 1 c. c. of urine were selected for analysis. Post mortem details. *Spinal Cord* with membrane was very firm, measured twelve inches and weighed 43 grains. The tissues, especially the membranes were highly congested, the blood vessels were well filled with dark liquid blood. *Brain* was in the same state of congestion and weighed 122 grains. *Kidneys*, together weighed 188 grains. *Liver* 698 grains. *Lungs and Heart* weighed 252 grains. *Stomach* was filled with partially digested food and weighed 1209 grains. *Small Intestine* near the ileo-cæcal valve, to the weight of 306 grains was removed. The abdominal cavity was partially filled with fluid. The *Urinary Bladder* was found to contain only 1 c. c. of urine.

CHEMICAL ANALYSIS.

1. *Liver Tests*.—(a.) Taste. Residue had an intensely bitter taste. (b.) Color. Plays of colors very decided. (c.) Physiological. A few drops of the solution of the suspected residue injected into the cellular tissue of the abdomen of a frog, caused convulsions in thirty seconds, followed by death in 40 minutes.

2. *Brain Tests*.—(a.) Taste. The residue was very bitter. (b.) Color. When one drop of the dissolved residue was placed upon a porcelain slab, heated to dryness and a drop of sulphuric acid added, a flash of colors took place when a fragment of bichromate of potash was drawn through the mixture. (c.) Physiological. The remainder of the solution injected into a frog produced stiffening in ten seconds, afterwards opisthotonos, &c. Death in 26 hours. (This animal showed intense blueness of the skin.)

3. *Spinal Cord Tests*.—(a.) Taste. Very bitter. (b.) Color. Flash of colors, very decided. (c.) Physiological. A few drops of the dissolved ultimate extract injected into a frog, induced convulsions almost immediately, death ensuing in 23 minutes. (The ultimate extract was small in amount.)

4. *Urine Tests*.—(a.) Taste. Intensely bitter. (b.) Color. Instant reaction. (c.) Physiological. The remainder of the solution was subcutaneously injected into the back and abdomen of a batracian. Evidence of strychnia by tetanic convulsions in 15 seconds, causing death in 7 minutes.

5. *Kidneys Tests*.—(a.) Taste. Marked bitter taste. (b.) Color. Flash of colors. (c.) Physiological. Half of the dissolved residue injected into the cellular tissue of the back of a frog, induced stiffening in one minute, followed by death in ten minutes.

6. *Lungs and Heart Tests*.—(a.) Taste. Extremely bitter. (b.) Color. One drop evaporated to dryness, and subjected to this test, gave characteristic reaction. (c.) Physiological. Half of the solution of the final purified residue injected subcutaneously into a frog, produced tetanic movements in one minute, and death in 15.

7. *Stomach Tests*.—(a.) Taste. Very bitter residue. (b.) Color. Marked reaction. (c.) Physiological. A few drops placed upon the exposed spinal column, produced convulsions and death in 15 minutes.

8. *Small Intestines Tests*.—(a.) Taste. Intensely bitter. (b.) Color. When residue was subjected to proper reagents, there was produced the characteristic reaction. (c.) Physiological. Spasmodic seizures developed in 40 seconds and death in 10 minutes, when a few drops were brought into contact with the spinal column of a batracian.

EXPERIMENT 2. RECTAL INJECTION.

Gray rabbit, weighing $4\frac{1}{2}$ pounds, one and a half hours after death from chloroform was injected into the rectum with 100 c. c. of cold water, holding in suspension one gram of sulphate of strychnia. Length of interment, 21 days.

The brain, spinal cord, lungs and heart, (in situ) liver, kidneys, stomach, urinary bladder, small intestines, abdominal and thoracic fluids were selected for analysis.

Post mortem details. The animal was in a perfect state of preservation. Brain and blood vessels not congested; weighed 129 grains. Spinal cord measured 13 inches and weighed 49 grains. Urinary bladder weighed 14 grains. No urine was obtainable, having been voided during the death struggle. Kidneys weighed 134 grains. Liver 493 grains. Lungs and heart 253 grains. Small intestine to the weight of 382 grains was taken. Stomach and contents weighed 1266 grains. 15 c. c. of fluid was removed from the thoracic cavity, and 10 c. c. from the abdominal.

CHEMICAL ANALYSIS.

9. *Spinal Cord Tests*.—(a.) Taste. Portion of the residue dissolved in pure water, was intensely bitter. (b.) Color. A few drops evaporated to dryness on a clean porcelain slab, sulphuric acid added and a fragment of bichromate of potash drawn through the mixture, developed a marked deep color reaction. (c.) Physiological. $\frac{1}{2}$ c. c. of the dissolved residue injected under a frog's skin, produced very marked tetanic seizures in 30 seconds, and death in 23 minutes.

10. *Brain Tests*.—(a.) Taste. Very bitter taste. (b.) Color. Flash

of color, but mostly dirty green. (*c.*) Physiological. Several drops of dissolved residue, induced twitchings in a minute, and death stiffening in 15 minutes, when injected subcutaneously into a frog.

11. *Abdominal Fluid Tests*.—(*a.*) Taste. The residue gave a very intense taste. (*b.*) Color. Reaction, marked. (*c.*) Physiological. When a few drops were injected into the cellular tissue of a frog, tetanic twisting manifested itself in 30 seconds, followed by death in 5 minutes.

12. *Thoracic Fluid Tests*.—(*a.*) Taste. Ultimate extract was very bitter. (*b.*) Color. Play of colors decided. (*c.*) Physiological. When a few drops of the dissolved residue were injected under the skin of the back of the frog, jerking in the legs commenced almost immediately, becoming so violent in a few minutes, as to fracture the left leg, just below the knee joint. This is very interesting from a surgical point, furnishing an illustration of the production of a fracture from purely muscular power. There was a complete and perfect clasping of the fingers, and intense blueness of the extremities. Frog died in 24 hours.

13. *Urinary Bladder Tests*.—(*a.*) Taste. Imparted a very bitter taste. (*b.*) Color. One drop of dissolved residue evaporated to dryness produced a deep blue, &c. (*c.*) Physiological. $\frac{1}{3}$ of extract injected subcutaneously induced violent twitchings in 45 seconds and death in 10 minutes.

14. *Kidney Tests*.—(*a.*) Taste. Bitter. (*b.*) Color. Flash of colors. (*c.*) Physiological. One-half of the ultimate extract, injected into the cellular tissue of a small frog, produced tetanic jumping in $1\frac{1}{2}$ minutes, followed by death in 30 minutes.

15. *Heart and Lungs Tests*.—(*a.*) Taste. Bitter. (*b.*) Color. Beautiful color, reaction. (*c.*) Physiological. Several drops injected into a frog, caused spasmodic leaping in 30 seconds, and death in 5 minutes.

16. *Small Intestine Tests*.—(*a.*) Taste. Very bitter residue. (*b.*) Color. Positive color reaction. (*c.*) Physiological. A portion of the final extract caused convulsive jerking in 15 seconds and death stiffening in $7\frac{1}{2}$ minutes.

17. *Liver Tests*.—(*a.*) Taste. Residue was very bitter. (*b.*) Color. A crystal subjected to this test, gave a beautiful reaction. (*c.*) Physiological. A crystal placed upon the spinal column of a frog produced spasmodic writhing in 23 seconds, convulsions and death, $32\frac{1}{2}$ minutes.

18. *Stomach Tests*.—(*a.*) Taste. The crystals were intensely bitter. (*b.*) Color. Brought in contact with the proper reagents, a play of colors took place. (*c.*) Physiological. When the crystalized residue was placed under the skin of a batrachian, tetanic starting commenced in 15 seconds, followed by general convulsions and death in 5 minutes.

EXPERIMENT 3. ABDOMINAL INJECTION.

Gray rabbit, weighing $1\frac{1}{2}$ pounds, seven hours after death, was injected into the abdominal cavity with 100 c. c. of cold water, holding in suspension one gram of sulphate of strychnia. An opening was made in the abdominal wall, the solution introduced, and the opening securely

closed. Length of interment 10 days. The brain, spinal cord, heart, lungs, and 5 c. c. of thoracic fluid, were selected for chemical analysis.

Post mortem details. Animal in perfect state of preservation. Nothing special except evidence of death by chloroform. Brain weighed 107 grains, spinal cord measured 12 inches and weighed 30 grains, lungs weighed 164 grains, and the heart 70 grains. 5 c. c. of fluid were removed from the right and left pleural cavities.

CHEMICAL ANALYSIS.

19. *Brain Tests*.—(a.) Taste. The residue had a very bitter taste. (b.) Color. Play of colors. (c.) Physiological. Half of the ultimate extract introduced subcutaneously into the back of a frog, induced muscular trembling in $1\frac{1}{2}$ minutes, passing in three minutes into arching of the body, and muscular twitchings like the ticking of a telegraph instrument. Death in 8 minutes.

20. *Spinal Cord Tests*.—(a.) Taste. The residue gave a bitter taste. (b.) Color. Play of colors. (c.) Physiological. Several drops of the dissolved residue thrown into the cellular tissue of a frog, produced twitching in 15 seconds, and convulsive death in one hour and 20 minutes. (Extreme blueness of the extremities of the frog, especially the upper leg region.)

21. *Lungs Tests*.—(a.) Taste. The residue imparted to the tongue, a bitter taste. (b.) Color. Very quick response. (c.) Physiological. In 30 seconds after the injection of the dissolved extract, the action of strychnia, shown by spasmodic jumping, bulging of the eyes and early lividity of the posterior extremities, which gradually became general. Deep gasping and very intense dyspœna. Tickling of the feet, caused the convulsions to become general, with a claspings of the fingers and hind legs rigidly extended, relaxing just before the death, which took place in 3 hours and 48 minutes.

22. *Heart Tests*.—(a.) Taste. Residue very bitter. (b.) Color. Good reaction. (c.) Physiological. Several drops of the solution of the suspected residue injected into a frog, caused muscular contractions and rigidity in $1\frac{1}{4}$ minutes, terminating in death in $25\frac{1}{2}$ minutes.

23. *Thoracic Fluid Tests*.—(a.) Taste. Extremely bitter residue. (b.) Color. Play of colors decided. (c.) Physiological. A few drops of the dissolved extract thrown under the skin, produced convulsive jumping and trembling in $1\frac{1}{2}$ minutes, in 3 minutes opisthotonos ending in rigidity and death in 10 minutes.

EXPERIMENT 4. THORACIC CAVITY INJECTION.

Gray rabbit weighing 2 pounds, 7 hours after death from chloroform was injected into the thoracic cavity with 100

c. c. of cold water, holding in suspension 1 gram of sulphate of strychnia. A small incision was made in the fifth intercostal space and after the introduction of the solution, the opening tightly closed. Exhumed in 10 days.

The brain, spinal cord, stomach, liver, kidneys, small intestine, right scapula and 2 c. c. of urine were removed for chemical analysis.

Post mortem details. Brain weighed 100 grains. Spinal cord measured 12 inches and weighed 33 grains. Stomach and contents 840 grains. Liver 640 grains. Kidneys 100 grains. Duodenum and jejunum 250 grains. Scapula with attached muscles 104 grains. 2 c. c. of urine were in the bladder.

CHEMICAL ANALYSIS.

24. *Brain Tests*.—(a.) Taste. The residue imparted a bitter taste to the tongue. (b.) Color. Evanescent play of colors. (c.) Physiological. A portion of the extract placed under the skin over the spinal vertebræ produced convulsions in 20 seconds, and death in one hour and 20 minutes. (Blue extremities.)

25. *Spinal Cord Tests*.—(a.) Taste. Residue intensely bitter. (b.) Color. Very positive play of colors. (c.) Physiological. Several drops of the dissolved extract injected under the skin of a batrachian, strychnized it in one minute and killing it in 19 minutes.

26. *Urine Tests*.—(a.) Taste. Bitter residue. (b.) Color. Flash of colors. (c.) Physiological. Solution of the extract tetanized a frog in half a minute. Death in 40.

27. *Stomach Tests*.—(a.) Taste. Extracted crystals were extremely bitter. (b.) Color. Flash of colors. (c.) Physiological. A crystal tetanized a frog immediately. Death in 2 hours and 41 minutes. (Frog showed a livid skin.)

28. *Kidneys Tests*.—(a.) Taste. Very intense bitter residue. (b.) Color. (No test made, as what was left of the remaining portion of the solution of the residue, was reserved for the frog test. Owing to an accident nearly all the residue was lost.) (c.) Physiological. Solution of extract injected into a frog induced tetanic spasms in 2 minutes, and death in 5 hours and 36 minutes.

29. *Liver Tests*.—(a.) Taste. Residue was intensely bitter. (b.) Color. Characteristic color play. (c.) Physiological. Several drops of dissolved residue produced tetanic convulsions in one minute, and death in six.

30. *Small Intestine Tests*.—(a.) Taste. Bitter residue. (b.) Color. Flash of colors. (c.) Physiological. A crystal placed upon the spinal vertebræ under the skin of a frog, strychnized the batrachian in 4 minutes, and produced death in 35 minutes.

31 *Scapula and Attached Muscles Tests*.—(a.) Taste. Residue gave an intense bitter taste. (b.) Color. Color play decided. (c.) Physiological. A few drops subcutaneously injected, induced convulsive symptoms in $1\frac{1}{2}$ minutes, and death in $30\frac{1}{2}$.

EXPERIMENT 5. STOMACH INJECTION.

Rabbit weighing $3\frac{1}{2}$ pounds, four hours after death from chloroform was injected into the stomach with 100 c. c. of cold water, containing one gram of sulphate of strychnia. Length of interment 6 days. The solution was not introduced through the opening in the œsophagus as in some former experiments, for the purpose of preventing any fluid from gaining an entrance into the cranium through the ethmoidal and sphenoidal sinuses, and thereby contaminating the brain; but through the mouth into the stomach. This method, it was supposed, would be the one followed by a designing person. The brain, spinal cord, right and left kidneys, heart, lungs, small intestine, 5 c. c. of urine, 5 c. c. of fluid from the left pleural cavity, and 3 c. c. from the right pleural cavity, were selected for analysis.

Post mortem details. Sections were removed from these organs for microscopical work. Brain weighed 175 grains. Spinal cord measured 12 inches and weighed 48 grains. Urinary bladder contained 15 c. c. of urine. The left pleural cavity contained 5 c. c. and the right 3 c. c. of fluid. The right kidney weighed 102 grains and the left 110. Heart weighed 126 grains and the lungs 304. Small intestine (portion removed) weighed 219 grains. Liver 565 grains. Right scapula and attached muscles 426 grains. No free fluid was found in the abdominal cavity.

CHEMICAL ANALYSIS.

32. *Brain Tests*.—(a.) Taste. Very bitter residue. (b.) Color. Characteristic reaction. (c.) Physiological. Several drops of the dissolved residue when injected into a frog, produced tetanic leaping and trembling in 30 seconds, and death in 45 minutes.

33. *Spinal Cord Tests*.—(a.) Taste. Intensely bitter residue. (b.) Color. Sharp color play. (c.) Physiological. Tetanic seizures were produced by a small portion of the residue in 30 seconds after a frog was injected, and death in five minutes.

34. *Urine Tests*.—(a.) Taste. Extremely bitter residue. (b.) Color. Pronounced purple and blue, rapidly changing color, finally turning a dirty green. (c.) Physiological. After a few drops of the dissolved residue were subcutaneously injected, convulsions commenced terminating in death in 55 minutes. These spasms were frightful.

35. *Left Thoracic Fluid Tests*.—(a.) Taste. Bitter residue. (b.) Color. Marked color play. (c.) Physiological. A few drops tetanized a batrachian immediately. Death taking the animal out of the agony in five minutes and a half.

36. *Right Thoracic Fluid Tests*.—(a.) Taste. Final residue gave a bitter taste. (b.) Color. Beautiful play of colors. (c.) Physiological. Residue dissolved in pure water and injected into a frog, produced twitching and tetanic movements in 15 seconds. The attacks and remission at regular intervals manifested themselves. Death in five minutes.

37. *Right Kidney Tests*.—(a.) Taste. Intensely bitter extract. (b.) Color. No reaction whatever with this test. (c.) Physiological. Only a few drops tetanized a frog in 25 seconds. The spasms were so intense that the frog formed a perfect arch, resting upon its nose and hind feet. Death in 13½ minutes.

38. *Left Kidney Tests*.—(a.) Taste. Very bitter residue. (b.) Color. No reaction with this test. (The negative reactions in both kidneys with the color test, were probably due to some organic matter). (c.) Physiological. A few drops of solution of the suspected extract introduced into a frog produced tetanic spasms in 28 seconds. Intense twitching of the abdominal muscles and general stiffening. Death in 15 minutes.

39. *Heart Tests*.—(a.) Taste. Bitter ultimate extract. (b.) Color. Beautiful color play. (c.) Physiological. Residue introduced into the cellular tissues of a frog, produced spasms and death in 30 minutes.

40. *Lungs Tests*.—(a.) Taste. Bitter residue. (b.) Color. Residue when brought in contact with reagents, gave a play of colors. (c.) Physiological. Solution of the final extract induced tetanic convulsions in 15 seconds, and death in five minutes.

41. *Small Intestine Tests*.—(a.) Taste. Extract was bitter. (b.) Color. Characteristic color play. (c.) Physiological. A frog when exposed to a small portion of the residue manifested convulsive seizures in 25 seconds, producing death in 9 minutes.

42. *Liver Tests*.—(a.) Taste. Very bitter crystals. (b.) Color. Very beautiful color play. (c.) Physiological. A small crystal placed upon the exposed spinal column, produced tetanic symptoms immediately, ending in death in three minutes.

43. *Scapula Tests*.—(a.) Taste. Bitter residue. (b.) Color. Play of colors. (c.) Physiological. A small particle of the residue placed upon the lower end of the spine, immediately produced convulsions, and death in 26 minutes.

EXPERIMENT 6. STOMACH INJECTION.

Small rabbit, six hours after death from chloroform, was injected into the stomach with 100 c. c. of cold water, holding in suspension 1 gram of sulphate of strychnia. Length of interment, 3 days.

The brain, spinal cord, lungs, heart, liver, right and left kidneys, 2 c. c. of fluid from the abdominal cavity and 1 c. c. of urine, were selected for analysis.

Post mortem details. Brain weighed 86 grains. Lungs and heart 86 grains. Liver 469 and right and left kidneys 74 grains. 2 c. c. of free fluid were taken from the abdominal cavity. The urinary bladder contained 1 c. c. of urine.

CHEMICAL ANALYSIS.

44 *Brain Tests*.—(a.) Taste. Extremely bitter residue. (b.) Color. Color play. (c.) Physiological. One drop of the solution of the suspected substance, representing one one-hundredth part of the residue, tetanized a batrachian in 15 seconds, death ending its struggles in 17 minutes.

45 *Spinal Cord Tests*.—(a.) Taste. Bitter residue. (b.) Color. Characteristic reaction. (c.) Physiological. A few drops of the dissolved residue placed upon the lower spinal column, under the skin of a batrachian, produced spasms in 37 seconds, and death in 1 hour and 12 minutes.

46 *Lungs and Heart Tests*.—(a.) Taste. Intensely bitter. (b.) Color. Beautiful flash of colors. (c.) Physiological. Portion of the crystalized residue strychnized a frog immediately, and caused death in 5 minutes.

47 *Abdominal Fluid Tests*.—(a.) Taste. Bitter residue. (b.) Color. Flash of colors. (c.) Physiological. A few drops placed under a frog's skin over the pelvis, produced tetanic convulsions in 19 seconds, and death in 15 minutes.

48 *Liver Tests*.—(a.) Taste. Crystals very bitter. (b.) Color. Color play. (c.) Physiological. A small crystal placed upon the lower end of the spine, and a drop of water applied, produced tetanic stiffening in 20 seconds, and death in 30 minutes.

49 *Kidneys Tests*.—(a.) Taste. Very bitter. (b.) Color. Play of colors. (c.) Physiological. Portion of the residue strychnized a frog immediately. Death in $10\frac{1}{2}$ minutes.

50 *Urine Tests*.—(a.) Taste. Intensely bitter. (b.) Color. Very characteristic play of colors. (c.) Physiological. Several drops of the solution of the ultimate extract, strychnized a frog in 15 seconds, death following in $12\frac{1}{4}$ minutes.

I have now presented for your consideration, the work

of fifty toxicological analyses, having been successful in recovering strychnia from every important organ, tissue and secretion, attempted.

It should be carefully noted that according to these results, strychnia deposited post mortem in the rectum, can imbibe and be recovered from adjacent and remote organs, secretions, &c., in 21 and 12 days; from the abdominal and thoracic cavities in 10 days; and also from the stomach in 6 and 3 days. Further than this I have not gone, but have not the slightest doubt of its diffusibility in 2 days, and probably the process to a limited extent, may take place in one day. This no doubt to some will cause surprise; however not to one who is familiar with the subject.

The labor in toxicological analysis is great and tedious, requires careful preparation, constant application, thorough training and skill. Results are often only arrived at, after many hours of midnight and early morning toil.

Fluent words may be found on the ends of many tongues, but original results *speak* for themselves.

It was one of the objects of our beloved American Naturalist, the late Dr. Joseph Leidy, to pioneer a subject, interest and stimulate by his results, his students and others to enter the field and continue the work, himself then seeking another line of original investigation. It is sincerely hoped that the words spoken and the instruction given in those old halls, may forever be heard ringing in our ears, and be a guiding star leading us to truth, and a nucleus which will germinate and keep us ever eager and anxious for knowledge.

A love for the interesting work, a pleasure in stealing into Nature's Laboratory and fathoming her secrets, and a desire to contribute to science whatever our humble and crude efforts may accomplish, is our only recompense.

Law and Justice call upon science to unravel the per-

plexed and misleading subjects. Only glance through our libraries of Law and Medicine, and are we not appalled, ashamed, and spurred on to renewed efforts in mastering the yet unsolved problems of medico-legal science. We should at least try to add link by link in the chain of evidence, and finally we will have woven around the criminal, a net, such as the spider weaves about the swift winged insect.

The results, for convenience, may be placed in tabular form, as follows :

EXPERIMENT NO. I.

Rectum injected with 1 gram of Sulphate of Strychnia in solution. Animal buried 12 days.

Number.	1	2	3	4	5	6	7	8
Tissue Analyzed.	Liver.	Brain.	Spinal Cord.	Urine.	Kidneys.	Lungs & Heart.	Stomach & Contents.	Small Intestine.
Weight and quantity.	698 grains.	122 grains.	43 grains.	1 c. c.	188 grains.	252 grains.	1209 grains.	306 grains.
1. Taste.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.
2. Color.	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.
3. Physiological. —0— a. Time elapsing between injection of the frog and strychnia symptoms.	30 Seconds.	10 Seconds.	Almost immediately	15 Seconds.	1 Minute.	1 Minute.		40 Seconds.
b. Interval between injection and death of the frog.	40 Minutes.	26 Hours.	23 Minutes.	7 Minutes.	10 Minutes.	15 Minutes.	15 Minutes.	10 Minutes.

EXPERIMENT NO. 2.

Rectum injected with 1 gram of Sulphate of Strychnia in solution. Animal buried 21 days.

Number.	9	10	11	12	13	14	15	16	17	18
Tissue Analyzed.	Spinal Cord.	Brain.	Abdominal Fluid.	Thoracic Fluid.	Urinary Bladder.	Kidneys	Heart & Lungs.	Small Intestine.	Liver.	Stomach & contents
Weight and quantity.	49 grains	129 grs.	10 c. c.	15 c. c.	10 grains.	134 grs.	253 grains.	382 grains.	493 grs.	1266 grs..
1. Taste.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.
2. Color.	Color Play.	Color Play.	Color Play	Color Play	Color Play	Color Play.	Color Play	Color Play	Color Play.	Color Play
3 Physiological.										
a. Time elapsing between injection of the frog and strychnia symptoms.	30 Seconds	1 Minute.	30 Seconds.	Almost immediately.	45 Seconds.	1½ Minutes	30 Seconds.	15 Seconds.	23 Seconds	15 Seconds.
b. Interval between injection and death of the frog.	23 Minutes	15 Minutes	5 Minutes.	24 Hours.	10 Minutes.	30 Minutes	5 Minutes.	7½ Minutes.	32½ Minutes	5 Minutes.

EXPERIMENT NO. 3.

Abdominal cavity injected with 1 gram of Sulphate of Strychnia in solution. Animal buried 10 days.

Number.	19	20	21	22	23
Structure Analyzed.	Brain.	Spinal Cord.	Lungs.	Heart.	Thoracic Fluid.
Weight and quantity.	107 grains.	30 Grains.	164 grains.	70 grains.	5 c. c.
1. Taste.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.
2. Color.	Play of Colors.	Color Play.	Color Play.	Color Play.	Color Play.
3. Physiological.					
a. Time elapsing —O— between injection of the frog and strychnia symptoms.	1½ Minutes.	15 Seconds.	30 Seconds.	1¼ Minutes.	1½ Minutes.
b. Interval between injection and death of the frog.	8 Minutes.	20 Minutes.	3 Hours and 48 Minutes.	25½ Minutes.	10 Minutes.
Tests :					

EXPERIMENT NO. 4.

Thoracic cavity injected with 1 gram of Sulphate of Strychnia in solution. Animal buried 10 days.

Number.	24	25	26	27	28	29	30	31
Structure Analyzed.	Brain.	Spinal Cord.	Urine.	Stomach & Contents.	Kidneys.	Liver.	Small * Intestine.	Scapula and Attached Muscles.
Weight and quantity.	100 grains.	33 grains.	2 c. c.	8.40 grains.	100 grains.	6.46 grains.	250 grains.	104 grains.
1. Taste.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.
2. Color.	Color Play.	Color Play.	Color Play.	Color Play.		Color Play.	Color Play.	Color Play.
3. Physiological.								
a. Time elapsing between injection of the frog and strychnia symptoms.	20 Seconds.	1 Minute.	$\frac{1}{2}$ Minute.	Almost immediately.	2 Minutes.	1 Minute.	4 Minutes.	1 $\frac{1}{2}$ Minutes.
b. Interval between injection and death of the frog.	1 Hour and 20 Minutes	19 Minutes.	40 Minutes.	2 Hours and 41 Minutes.	5 Hours and 36 Minutes.	6 Minutes.	35 Minutes.	30 $\frac{1}{2}$ Minutes.

Tests :

EXPERIMENT NO. 5.

Stomach injected with 1 gram of Sulphate of Strychnia in solution. Animal buried 6 days.

Number.	32	33	34	35	36	37	38	39	40	41	42	43
Structure Analyzed.	Brain.	Spinal Cord.	Urine.	Left thoracic cavity.	Right thoracic cavity.	Right Kidney	Left Kidney	Heart.	Lungs.	Small intestine.	Liver.	Right Scapula
Weight and quantity.	175 grs.	48 grs.	15 c. c.	5 c. c.	3 c. c.	102 grs.	110 grs.	126 grs.	304 grs.	219 grs.	565 grs.	426 grs.
{ 1. Taste. 2. Color. 3. Physiological. —o— a. Time elapsing between injection of frog and appearance of convulsions. Tests : { b. Interval be- tween injection of the frog and its death.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.
	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.	No reaction	No reaction	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.
	30 seconds	30 seconds		Almost immediately.	15 seconds	25 seconds	28 seconds	1 minute	15 seconds	25 seconds	Almost immediately.	Almost immediately.
	45 minutes	5 minutes	55 minutes	5½ minutes	5 minutes	13½ minutes	15 minutes	30 minutes	5 minutes	9 minutes	3 minutes	26 minutes

EXPERIMENT No. 6.

Stomach injected with 1 gram of Sulphate of Strychnia in solution. Animal buried 3 days.

Number.	44	45	46	47	48	49	50
Structure Analyzed.	Brain.	Spinal Cord.	Lungs and Heart.	Abdominal fluid.	Liver.	Kidneys.	Urine.
Weight and quantity.	86 grains.	15 grains.	86 grains.	2 c. c.	469 grains.	74 grains.	1 c. c.
1. Taste.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.
2. Color.	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.	Color Play.
3. Physiological.							
a. Time elapsing between injection of the frog and appearance of convulsions.	15 Seconds.	37 Seconds.	Immediately	19 Seconds.	20 Seconds.	Immediately	15 Seconds.
b. Interval between injection of the frog and its death.	17 Minutes.	1 Hour and 12 Minutes.	5 Minutes.	15 Minutes.	30 Minutes.	10½ Minutes.	12¼ Minutes.
Tests :							

THE CASE OF HAYDEN.

BY PROF. M. C. WHITE, M. D., OF NEW HAVEN.

In the famous case of State vs. H. H. Hayden, on trial for murder, before the Superior Court of New Haven, Conn., at the October Term, 1879, which cost the State of Connecticut about forty thousand dollars and resulted in a disagreement of the jury. This case remained on the docket till October, 1896, when a *nolle* was entered. One of the most important questions before the court was the discrimination by microscopic examination of parcels of arsenious acid, white arsenic, from different manufactories or obtained from different dealers.

Sept. 3, 1878, Mary Stannard was found dead in the woods in Rockland in the town of Madison, Conn., with her throat cut. Post mortem examination revealed the presence of about sixty grains of white arsenic in her stomach not dissolved.

H. H. Hayden, the accused had, on the day of the murder, purchased an ounce of arsenic of a druggist in Middletown, and the State charged that he had administered some of that arsenic to the deceased, Mary Stannard.

Mr. Hayden claimed that he had placed the whole of the arsenic which he purchased in a tin box and had put it away in his barn for safety till he could use it for killing rats.

The State took possession of a box of arsenic found in Hayden's barn, where he said he had placed it, and having obtained also a sample of arsenic from the druggist who

sold arsenic to Mr. Hayden, placed both packages together with the arsenic found in Mary Stannard's stomach, in the hands of experts for examination.

The writer quickly decided by microscopic examination that the arsenic found in Mr. Hayden's barn consisted mostly of crystals with brilliant glassy surfaces like arsenic recently crystalized by sublimation, while the arsenic obtained in Middletown, had dull, lusterless surfaces and contained comparatively large masses showing no crystalline surfaces and much fine powder, that it corresponded in appearance with the arsenic found in the stomach of Mary Stannard, while the arsenic found in Hayden's barn was decidedly different from that found in the stomach of the murdered girl.

Prof. E. S. Dana was sent to Wales to study the manufacture of arsenic and to show if possible how such characteristic differences in parcels of arsenic could be accounted for and whether such differences could be considered sufficiently characteristic and permanent to be used as evidence in criminal trials. Several other professional gentlemen were called on both sides and several days were consumed in discussion of that important question.

I present herewith three photographs of white arsenic. The first called Colegrove arsenic, was obtained from the druggist who sold an ounce of arsenic to Mr. Hayden the day that Mary Stannard was murdered. The second is a photograph of the solid arsenic found in the stomach of the murdered girl. The third is a photograph of the arsenic found in Mr. Hayden's barn and claimed by the defence to be the identical arsenic purchased by him on the day Mary Stannard was found dead in the woods. It was claimed by the State that No. 3 was obtained from some other source and was substituted for that which was purchased before the murder.

An examination of the photographs shows that No. 1 and No. 2 are substantially alike, while No. 3 is more distinctly crystalline and smoother, but the brilliant facets of No. 3 and the dull leaden appearance of No. 1 and No. 2 cannot be reproduced in the photographs.

I have received two other photographs made in Chicago from drawings showing the form and appearance of two varieties of arsenic obtained in that city, showing as remarkable and characteristic differences as the specimens of arsenic which figured so conspicuously in the Hayden trial.

It is very desirable to explain, if we can, how the characteristic differences of the various varieties of arsenic are produced.

It is well known that when arsenious acid (the white arsenic of commerce) is sublimed, i. e. when it passes rapidly from the state of vapor to a solid form it appears as regular octahedral crystals.

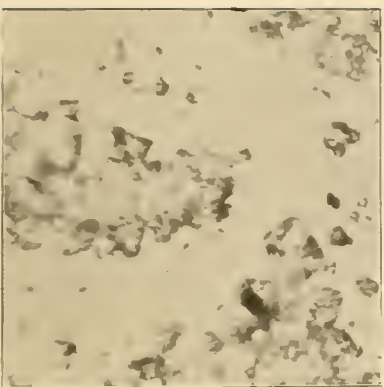
Arsenious acid is obtained in an amorphous opaque form after prolonged heating at a temperature near to that at which it volatilises.

By heating in a closed vessel it forms a colorless fluid which on cooling becomes a transparent vitreous mass whose specific gravity is slightly less than that of the crystals.

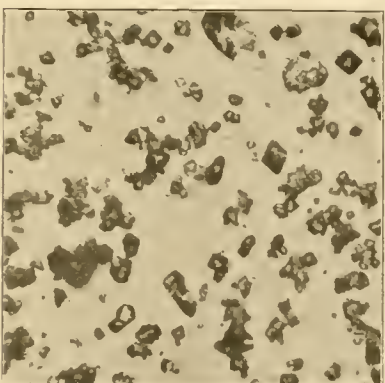
All these varieties are formed in various proportions where arsenic is smelted and sublimed.

If all these varieties were kept separate we could account for the differences seen in the various brands of arsenic, but the defence in the Hayden trial claimed that all these forms obtained from the arsenic ovens are ground together and not likely to appear in commerce as distinct varieties.

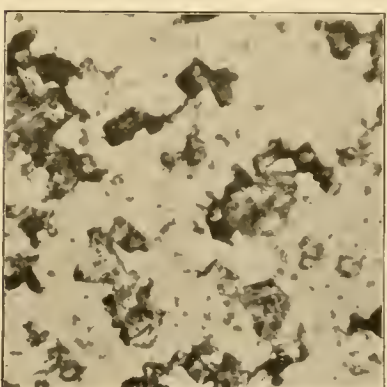
I have myself observed some changes in arsenic crystals



ARSENIC FROM STOMACH.



BARN ARSENIC.



COLLEGROVE ARSENIC.

kept in my possession for thirty-five years exposed to air, but I am hardly prepared to discuss the results at present.

This subject has been brought forward in the Medico-Legal Congress with the hope that some experts would be able to throw important light upon this interesting subject.

THE ETIOLOGY AND TREATMENT OF CRIMINALITY.

BY DANIEL R. BROWER, A. M., M. D., CHICAGO.

Professor of Mental Diseases and Therapeutics, Rush Medical College; Professor of Mental and Nervous Diseases, Northwestern University Woman's Medical College and Post-Graduate Medical School, etc.

The principal etiological factors in crime are vicious parentage, bad environment, intemperance, a constant increase in the urban population, unrestricted emigration, and the unreasonable manner in which the laws are administered.

Vicious parentage not only means a criminal parentage, but a neurotic one, the product of epilepsy, hysteria, alcohol, and narcotic poisons, or any of the other neurotic conditions that transmit to posterity an unstable, irritable nervous system; or any condition that in its transmission diminishes the power of inhibition. There is often among criminals a very great fecundity. This is well illustrated by the Juke family in New York, one criminal producing a progeny of about 1700 criminals and paupers in the seventh generation.

Bad environment is a very potent factor in the causation of crime. The child is father of the man, and it is only those who are endowed with extreme mental capacity, can raise themselves above the almost overwhelming influences of their environments. The world has produced very few Lincolns and Garfields.

Read before the Medico-Legal Congress, September, 1895, by title.
Read before the Medico-Legal Society, February 16, 1898

Intemperance alcohol, is an etiological factor in crime. We recognize this as a strong anæsthetic, benumbing physical, as well as moral sensibility. Its striking effects, when habitually used, are to make people untruthful, to increase sensuality. The habitual drunkard probably lies without being conscious of it, these qualities are transmitted, and in their transmission often become intensified.

Dr. Wines, as the result of his extensive observations in prisons throughout the world, ascertained that fully three-fourths of all the prisoners have been addicted to the excessive use of alcoholic liquors.

The distinguished Judge White, of Pennsylvania, says after fifteen years on the bench, "I believe four-fifths of all crimes committed are the result directly or indirectly of the use of intoxicating liquors."

The increase in the urban population: the tendency of civilization to-day to make people flock from countries to cities is remarkable all over the world, making as it does the struggle for existence so much more severe.

It has been estimated that our city supplies 90 per cent of the criminals in our public institutions.

Unrestricted immigration is a very powerful etiological factor. The census of 1890 shows that the foreign element constitutes about 20 per cent. of the whole population; and yet this foreign born population furnishes over one-third of our criminals, and three-fifths of our paupers. It looks very much as if the European countries were unloading on us their criminals and paupers.

The unreasonable manner in which laws are administered serves as a factor in the development of criminals. When a child steals an article of small value he is sent jail, and there he mingles daily with criminals who are greater adepts than himself, and he learns from them lessons of crime that will make him more successful in his

future ventures. If the stolen article is of small value, the punishment is of short duration. When the time comes he goes out into the world free, not to engage in a profitable occupation of course, but to begin afresh his criminal operations. In due time he is again arrested, sent to the Bridewell, to jail, or to the penitentiary. Before correcting his incapacity for useful occupation again he associates with these confirmed criminals and serves out his sentence and is again released. Nothing has been done to give him capacity for earning his support. He is now disgraced in the eyes of the people, and the means of obtaining a livelihood are practically *nil*. Better versed in criminal knowledge, he now pursues his criminal propensities for probably a longer period of time, and then some time or other is re-arrested, so that there may be commitment after commitment. One case on record shows 230 commitments. This is unreasonable. The consideration in the main of the child's first commitment should not have been the crime, but should have been the biological condition of the prisoner. The object should not be to punish altogether; it should be to restrain, to reform, it should be deterrent and reformatory rather than purely punitive.

Now, the remedy for the treatment of these people should be modification of the marriage license. The vicious parentage should be avoided by demanding evidence that both the proposed contracting parties are in good health; that they are not alcoholic, nor narcotic inebriates; that they have not epilepsy, tuberculosis, nor active venereal disease; that they are not insane, criminals, paupers. The breeder of horses, of cows and pigs has a most careful regard for matters of heredity, and improves his stock by a careful consideration of the use of all the knowledge he possesses on this subject. And, surely, the future of the

human race is as important as that of the domestic animals by which they are surrounded. Bad environments should be corrected by court proceedings. Children who are not receiving proper discipline and education at home, should be placed under such suitable environments as will correct these errors and defects.

The temperance question is a vast one. Spreading information among the people as to the baneful influence of intemperance to the extent that it is now being done will diminish crime, and a more universal distribution of the knowledge of this sort will be followed by even more improvement. So long as king alcohol makes laws, so long as the saloon is the great factor in American politics, just so long will all our efforts at controlling this prolific cause of crime be failures. We need to-day legislation for drunkards; we need to-day authority to place in prolonged confinement the drunkard just as much as we need legislation for restraining the insane, and for the confinement of the criminal. By present methods the reformation of the drunkard is almost impossible; whereas, if we had authority to restrain them for one, two or three years, or just as long as the reformation is required, with the privilege of re-applying the confinement when necessary, there might be some reasonable probability of a fair amount of reformation. Probably the best way out of it to-day is not by prohibition, but by a high license system.

As a remedy for the constant increase in the urban population, which is such a fruitful source of crime, some method must be provided for the restoration of the equilibrium—some way by which the unproductive citizen may be transported to the country,

The last proposition—the unreasonable manner in which laws are administered—demands: *First*, that the pardoning power should be taken out of the hands of the Governors

of States, and placed under the control of a Board of Pardons, whose members should be skilled in criminal anthropology. *Second*, all sentences should be indeterminate, based upon the social and biological condition of the criminal. He should be under reformatory influences until his reformation is effected, be the offence greater or small. Then our penal institutions demand remodeling. There should be local jails for the retention of prisoners awaiting trial in which there should be complete segregation. A man who has committed his first offence should not be permitted to associate with hardened criminals. Trial should be speedy, and sentences prompt.

For the incorrigible minor children there should be reform schools, where, through a protracted period, these children should be educated in manual training, and taught some useful occupation that may be to them a means of honorable livelihood. There should be reformatories for the older criminals who are capable of reformation; and these also should be taught, not only the rudiments of an English education, but the useful arts, and their period of confinement should be until they are able to withstand temptation and earn an honest living.

And lastly, for those who are incapable of reformation, there should be penitentiaries for their life-long incarceration, and these should be made as near self-sustaining as possible by having the prisoners employed in useful occupations.

WHEN MAY GONORRHEAL PATIENTS MARRY?

BY FERD. C. VALENTINE, M. D.,

Professor of Diseases of Genito-Urinary Apparatus New
York School of Clinical Medicine; Genito-Urinary
Surgeon West Side German Dispensary, etc.

As this learned body does not consist exclusively of physicians, a few remarks on gonorrhea may appropriately preface this paper. Gonorrhea being among the most frequent of diseases, its disagreeable, painful characteristics need no description. Yet, despite that frequency, its possible consequences to the patients and to others are underrated. This is due to that familiarity with its manifestations which seems to have bred contempt for the results. All have heard of the man who was as little troubled by a clap as he would be by a common cold. None has ever seen him, save in those rare instances in which, at the time of making the assertion, he was not suffering from the disease.

The very frequency of clap has caused it to be considered a proper, or rather, improper, and therefore more delectable subject of humor. The same sentiment prompted the French to masquerade and dance when cholera raged. Who does not remember the little couplet, born of that Galgenhumor:

*Il existent des familles entieres,
Qui sont mortes du cholera.*

Thus clap is laughed at. But there is bitter wit in the

Read before the Medico-Legal Congress, September 6th, 1895.

hyperbole that offers a keg of nails to chew, as a palliative for the pain produced on urinating.

The "issue from the flesh," as it is spoken of in church literature, is as old as the history of man.

Neisser, in 1872, discovered that it depends upon a characteristic microbe which he named, most unhappily, the gonococcus. In fresh attacks it produces the well-known discharge, whose normal term of duration, if fortunately treated, was, until recently, six weeks. Under the present form of treatment, popularized by Prof. Jules Janet, of Paris, its average duration is now below ten days. The possible complications of the disease, under the older treatments, need not now be discussed, for they affect only the patient himself.

But what if he communicate the disease to others?

Noeggerath, of New York, fully thirty years ago sounded the first note of alarm in this connection. On purely clinical grounds he attributed a vast proportion of death-dealing diseases in women to gonorrhea, which the husbands had had years before. Noeggerath's assumption has been more than borne out by recent science. A suppositious case may be recited here, covering a multitude of actual ones, seen daily.

A man contracts gonorrhea. After a time all discharge and other evidences of the disease disappear. His physician dismisses him as completely cured.

Five, ten, or more years later he has almost, if not entirely, dropped from his mind this, with other disagreeable recollections. He marries a healthy, strong girl. The young wife soon begins to fade. Vague pains set in. If her friends love her, she will be twitted with congratulations and advice regarding the presumed coming maternity. Her form, too, suggests such possibility. But by the time when, or before, the child that is to make her still more

loved by her husband is expected, it is found necessary to seek professional advice.

A cyst of the ovary, a fallopian tube filled with pus, or some other dangerous disease, is discovered. An operation, perilous to life, must be performed to save her. If she survive, she will no longer be a woman, for she cannot become a mother. The light of modern microscopy, brought to bear upon the tumor, cyst, tube, or other substance removed, shows gonococci. Remember that this wreck, but a few short months ago a vigorous, healthy woman, was "as chaste as ice, as pure as snow." Remember, too, that her husband presented no sensory evidence of the disease that killed his cherished wife. Killed—the word is advisedly employed—for, though she live, she is worse than dead; she is not only unsexed but also physically destroyed.

There are many other consequences of gonorrhea, which cannot be cited now, lest they swell this paper beyond its proper dimensions. It will suffice, as a mere example, to recall German statistics, which show that of the children who become hopelessly blind shortly after birth, over eighty per cent. have sightless globes owing to gonorrheal ophthalmia.

Should, therefore, all men who have gonorrhea be condemned to celibacy? How many, then, could marry? It would not be overhazardous to say that not one man in a thousand who swears to cherish and guard the woman of his choice, can do so without imperiling her life.

It might strike many at once that something forcible should be done to protect innocent women. The suggestion of legislative enactment looms up as a remedy. A moment's thought will make clear how any legislation in this direction must prove futile.

The remedy lies in education. The most ignorant can be taught that CLAP IS A DANGEROUS DISEASE.

It is perfectly true that, under the influence of ordinary injections, secret medicines, much advertised preparations, cases of apparent clap have recovered in as short a time as three days. The microscope would have revealed that these discharges were not clap at all. If left utterly without treatment, they would have stopped in half the time or less. But it cannot be repeated too often: Clap is a dangerous disease! Aside from the many complications and consequences which it may bring to the persons affected, it can make the patient hopelessly blind in twenty-four hours. These facts alone, among a multitude of others equally alarming, which affect the patient's self-love, being duly impressed upon his mind, we may go a step farther.

A disappearance of all external evidence of the disease by no means makes the ex-patient unable to cause his wife's death. Lurking in the crypts, follicles, and glands of his urethra may be gonococci. In the sexual relation these murderous bacteria are wholly or partially emptied out. Enough of them may be projected to pass with the semen to the regions where a future human being should be given life, and the prospective mother then has within her the fungus of destruction.

Is there no way, then, by which it can be determined whether a man is free from infective possibility? Indeed, this paper would fail of its purpose if there were none.

Modern means of exploration come to our aid. The urethroscope, by means of which every part of the urethra can be distinctly seen, will oftentimes show glands, crypts or follicles, in an unhealthy state. This frequently occurs in cases which presented no external evidence of disease for years. The contents of these glands, crypts, or follicles, being expressed and examined microscopically, will reveal the presence or absence of gonococci. If gonococci be present, *the patient must not marry* until they

are made to disappear absolutely and entirely. It is proper to say here that the above described exploration and examination are entirely painless.

Cases will present in which the foci of infection are either so minute or so nearly covered by mucous membrane that they are not at all visible. In such cases, the urethra may appear almost healthy, and yet contain, perhaps, even infinitesimally small glands filled with gonococci, or gonococci within the tissues of the urethra.

An irritant injection will produce a flow lasting from twelve to forty-eight hours. This flow, examined, will or will not be found to contain gonococci. If it contains gonococci, it will have so irritated their source, or sources, as to bring them to sight by means of the urethroscope. *Through the same instrument they can be destroyed and the patient rendered innocuous. If, however, the discharge produced by the irritant injection contains no gonococci, a second such injection should be made a week later. This will certainly reveal gonococci, if they be present anywhere in that urethra. If none is found, the physician may safely advise marriage, as far as possibility of infecting the wife is concerned. This whole procedure is practically painless, and does not disable the applicant from his occupation. But, even were it associated with frightful agony, and did it work great business disturbance, it would be better that the man suffer awhile than that he cause his wife's death, or worse than death. Of course, if gonococci be found, the patient must be cured before he may marry.

To detail the treatment of gonorrhea, acute or chronic, would be out of place here. A discussion of the modern methods, by which many of the most severe cases can be cut short effectively and harmlessly, belongs to bodies of

*This is not the occasion for a recital of the modern methods for combatting microbic infiltration of the tissues.

exclusively medical men. The significance of threads, flakes, granules, etc., in otherwise healthy, clear urine, equally must be judged by those who examine it. Nor are we concerned just now with the possible and probable effects directly upon the male patient. We may, however, briefly sum up in the following propositions, as regards gonorrhea and marriage:

1. Gonorrhea, *per se*, is a dangerous disease, but curable at any stage;
2. Even when all external evidence of its existence have disappeared, the patient may still be able to infect;
3. A woman infected with gonorrhea is in danger of her life;
4. No man should marry who can infect his wife;
5. In a week or ten days' time it can be determined whether a man can infect or not.

In view of the above, it is manifestly the duty of every layman and physician to disseminate, as far as lies in his power, the knowledge that will save many a life. Physicians, in the exercise of their priesthood, are continually working against their own interests, by teaching the prevention of disease. Thus they fulfill their highest mission. The educated laity, many of whom are attending this Congress for the benefit of humanity, should aid our profession in this work.

It certainly is meet and proper to devise means for the protection of innocent babes. Is it not equally proper to protect innocent girls who marry to bear children to the men they love? Their protection lies in educating men to abstain from marrying while they can infect. Every such marriage prevented, will protect a woman from death, or, what is far worse, a life of mental and physical torture.

THE BRUTALITY OF CAPITAL PUNISHMENT.

BY GUSTAV BOEHM, ESQ.

I have a dim recollection from the days of my childhood, that one day early in the morning, a howling, laughing, joking crowd of people passed our country residence in the suburbs of Vienna, on the way to the "Spider on the Cross"—a historical spot where for generations past, the miserable wretches condemned to death by a high Court of Vienna were executed in full view of the audience, generally a mob of several thousands of people of all stations, who had come from early dawn and many of them travelled many miles, to witness the interesting spectacle of strangulating a human being, (hands and feet tied, probably gagged,) by means of a two-armed old-fashioned gallows, a wheel, a ladder and a few yards of strong rope.

The noise of the passing crowd attracted us children to the window, from which we were peremptorily ordered to leave by our tutor, as soon as he learned the cause of the hilarious procession. Later, at other similar disturbances, I was told the object of these gatherings. People went to see and study every moment of the disgusting performance, and the scenes often witnessed at these unnatural spectacles were described as simply outrageous. Still—at that time—no one thought wrong of it. The pitiable wretch who through circumstances, perhaps entirely out of reach of human power to control, by disposition, a consequence of natural inheritance, or lack of education, a consequence of economic shortcoming, committed a deed which doomed him to leave his life at the "Spider on the Cross," had no right to expect anything else but frown, pain, shame and death under the most harassing and torturing preparations. At that time, hardly out of my childhood's shoes, I had come to the conclusion that among all beasts of

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Read before the Medico-Legal Society, June 15, 1898.

nature, the human was the most cruel, the most vicious, the most despicable among all of God's creatures.

The methods of executing the death sentence have since changed in many countries; the manner is different, but the dreary act has remained. The hilarious crowd witnessing, watching and discussing every movement, every word, every cry of agony, every twitch of the muscles of the poor wretch, has made room to a few invited guests whose scientific investigations and dissertations in public papers and magazines take the place of the popular gatherings formerly in vogue.

The electrical chair has driven the gallows—at least in this State of our blessed land of progress—out of use; we do not hang our murderers any more “by the neck until they are dead,” but we shock—a pity to say: at times roast them—until life is extinct. The method has changed, but the death sentence has remained, and queer to admit, with all the cruelty of former times, with all the brutality still adherent to the death penalty, with all the precautions of society for protection, yet murder has remained with us, and we dare say will always remain, as long as human beings with nerves and passions inhabit this globe.

The question arises, therefore, whether in placing society upon the level of the murderer, and killing the killers, we accomplish anything at all? Whether experience does not teach that this sacrifice of our own better self is too great to chance for an apparently unsuccessful attempt? Whether we ought to continue to kill legally while this degradation of our self to the level of the brute is eventually of no consequence for protection? Whether it is, under the circumstances, not our duty and in the spirit of progress to insist that such a law be abolished?

It is true, in the passing of time, the execution of this cruel act has been reduced to a nominal probability. We do not sentence thieves and pick-pockets to suffer death, we have no punishment for one hundred and more crimes as in former times, we even insist only in the most flagrant cases of murder on the practices of the biblical sentence: “An eye for an eye, a tooth for a tooth,” but still, after experience taught us that capital punishment does not protect from murder, we must acknowledge the barbarity of its execution even in a single case, unworthy of society at the end of the Nineteenth century. It is a barbaric remnant of former times and, I dare say, the

hour is not far off, when man will hear with disgust and shudder of the brutality of capital punishment, as we now listen with retained breath and revolting feelings to tales of the cruelties of the torture, not so very long ago the rightful and legal means to obtain admissions from suspicious persons or punish sentenced criminals.

The object of every law is three-fold:

First: To prevent.

Second: To reform.

Third: To punish.

Among these three points the second is the highest purpose of a law. To make a better and more useful being of a miserable wretch, is certainly a divine object. It ought to be considered the main purpose of the sentence. It alone is worthy of the attention of the humanitarian.

The first point "*To punish*," while it is strictly just, places legal sentence on the level of a pure act of revenge, hardly in accord with the "majesty of the law," which should not practice any of the baser properties of human nature, among which "revenge" is one of the foremost.

"*To prevent*" is one of the main objects of legal punishment. It is a protective measure and the individual is bound to be sacrificed to benefit the community.

Summing up, we find in the case of capital punishment:

First: The execution of the death penalty is an absolute and pure act of revenge. We kill *you* because you have killed.

Second: The execution of the death penalty excludes *a priori*, the highest purpose of the sentence: to reform. We can not reform the dead.

Third: Experience teaches that the execution of the death penalty has not accomplished the prevention of murders. The means to do so are apparently not within the reach of the laws' intentions. Therefore let us hope the humane and progressive spirit of our times will soon deliver us from this remnant of feudal barbarism.

The experiments with an introduction of death-machines in the State of New York to supercede the old methods of hanging or beheading; the invitation to scientists and the adaptation of scientific methods to assist in killing the miserable wretch condemned to suffer the death penalty, the exclusion of the public from the disgusting spectacle appear to be a giant stride forward in the direction, which will at last lead us to

recognize that capital punishment in any form or shape is no less than the most brutal murder, the most despicable, low act of revenge, the acme of cruelty, for no murderer will watch, nurse, keep from harm and feed his victim in so accomplished a manner as the state does, simply for the one and only object: to kill.

What revolting reading the practice of our death sentences will be to coming generations!

Let us close this chapter of legal brutality, the sooner, the better.

SANITY, INSANITY AND RESPONSIBILITY

BY SIMON FITCH, M. D., OF HALIFAX, NOVA SCOTIA.

An Outline of Definitions and Classification Based Upon Obvious Phenomena.

SUGGESTING A SCHEME FOR DEFINITION, CLASSIFICATION AND
DISCRIMINATION OF THE VARIOUS FORMS OF INSANITY,
BASED UPON EASILY RECOGNIZABLE SYMPTOMS, WHICH
MAY INITIATE A SIMPLE AND PRACTICAL DIFFER-
ENTIATION OF RESPONSIBILITY AND IRRE-
SPONSIBILITY.

MENTAL SANITY is correlation of all the cerebral functions, the lower faculties responsive and subordinate to the higher faculties:

The lower (effective) faculties being impulses, emotions, intellect.

The higher (directive) faculties, judgment, reason, conscience.

The will, the executive expression of the higher faculties.

MENTAL INSANITY is irrelation of cerebral functions, the lower faculties irresponsible or insubordinate to the higher faculties

A. *Sthenic irrelation.* B. *Asthenic irrelation.*

1. Lower faculties in fault. 2. Higher faculties in fault. 3. All faculties in fault.

A. 1. *Lower faculties impetuous and insubordinate to the will.*

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Read before the Medico Legal Society, June 15, 1898.

- a.* Sthenic insanity of impulses,
as destructive mania, kleptomania, sexual mania.
- b.* Sthenic insanity of emotions,
as hallucinations, megalomania; erotomania.
- c.* Sthenic insanity of intellect,
as illusions, intellectual extravagance and turbulence.
- A. 2. *Higher faculties excited, misdirect the will.*
 - a.* Sthenic insanity of judgment, as delusions.
 - b.* Sthenic insanity of reason, as illogical convictions.
 - c.* Sthenic insanity of conscience, as moral perverseness.
- A. 3. *All the faculties tumultuous, the most violent dominating the mind*, as Sthenic general insanity—Mania ferox.
- B. 1. *Lower faculties apathetic and irresponsible to the will.*
 - a.* Asthenic insanity of impulses, as inertia of instincts and propensities.
 - b.* Asthenic insanity of emotions, as moroseness, defective ideality, hypochondria.
 - c.* Asthenic insanity of intellect, as torpor of perception, inaptitude, incapacity.
- B. 2. *Higher faculties atonic, fail to direct the will.*
 - a.* Asthenic insanity of judgment, as incompetent discrimination.
 - b.* Asthenic insanity of reason, as progressive imbecility.
 - c.* Asthenic insanity of conscience, as moral deterioration.
- B. 3. *All the faculties inert, the will torpid*, as dementia, idioey, cretinism.

PHYSICAL INSANITY (insubordination of bodily functions to their governing powers) has phases analogous to various forms of mental insanity, as spasms and convulsions, cor-

responding to sthenic mental irritations A1, 2, 3; paralyzes, local and general, corresponding to asthenic mental irritations B1, 2, 3.

RESPONSIBILITY *and* IRRESPONSIBILITY depend upon the condition of the higher faculties.

I. If *the higher faculties*, judgment, reason and conscience *be impaired the subject should* control his actions and *be held responsible*, even if the lower faculties are turbulent, with or without hallucinations and illusions.

A patient, laboring under sthenic emotional insanity, was harassed with appearances of devils urging him to acts of violence, yet his reason discredited them and renounced their suggestions, but had he committed crime under these conditions, he would have been responsible.

II. If *the higher faculties be impaired or perverted the subject* is incompetent to control his actions, and *should be considered irresponsible*, even if the intellect seems to apprehend the character and penalty of the crime. Persons with morbid higher faculties, while conscious of the nature and consequence of their acts, will, without perceptible incentive, attempt most atrocious crimes, as murder and suicide, but for which they should scarcely be held responsible.

THE RIGHT TO COMMIT SUICIDE.

BY GUSTAV BOEHM, ESQ.

If it is insanity to concentrate one's thoughts in such a degree upon *one* subject in life to make all other of life's interests equal to naught, and this subject being accidentally the momentary troubles of life, making it apparently not worth living, then I agree with the general verdict of public and legal opinion, that the committing of suicide is the act of a lunatic. But, considering this opinion close, one must admit, what holds good in one case must hold good in another, and that this same theory may be applied to other spheres than the suicidal. The business man, to quote a practical example, whose thoughts are entirely concentrated on the transaction of business, neglecting thereby his health, his family, everything outside of the one and only object in view, is, according to this method, nothing else but a lunatic. The artist, the literateur, the scientist, the actor, every one who is totally devoted to his profession and aim, as he ought to be to obtain satisfactory results, is according to this theory no more or less than a lunatic.

Now ladies and gentlemen, do you agree with me?

Hardly. Suicide is frequently a consequence of a species of insanity, particularly melancholia, but it is not necessarily a positive proof of a diseased mind. It is, therefore, unjust in many cases to declare the suicide a lunatic, and, while it may greatly benefit the relatives of the unfortunate as far as provisions through life insurance policies are concerned, to insist on this view and bless the law for it, it is certainly not proper for the thinker to admit it.

"Temporary insanity" is a cheap verdict out of the dilemma. As long as it is generally beneficial to those most needy of assistance, we may well allow it to stand good. The "insanity plea" is a convenient bridge over legal complications and inconvenient consequences. Yet that is all.

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You have heard of suicides—and frequently so—who have settled up with their surroundings in a business-like manner, giving orders what shall be done with them and their property, after the deed, in as rational a manner as any sane person only could do, and even in a manner superceding ordinary rationality; yet the verdict was: “insane.” They had closed their accounts with life in as methodical a manner as any expert accountant would close a ledger and yet they have been proclaimed insane. This is an insult to the mental capacity of the unfortunates which they would promptly resent, were they alive and able. A person who has the conviction that life has nothing to offer worth living for, and methodically arranges his affairs to avoid any misunderstanding after death, then coolly sums up by cutting his throat, ought not to be declared a fool. It is rather an act of philosophic quality, the result of deep thinking and ripe judgment than the doings of an imbecile.

To claim him a criminal, as the present Penal Code of New York does, is rather unfair.

The law is no more capable to reduce suicidal acts, than the barbarity of capital punishment will prevent murder.

It is the wrong method to “scare” man away from the paths of suicide, by threatening to punish him—if he does not succeed.

Mind well: if he does not succeed. This is a law against sham-suicide; the real earnest actor in the tragedy will take good care to evade the law and administer the necessary dose to make sure of the results. Have our legislators actually thought, the unfortunate whom circumstances compel to quit for ever, who finds no attractions in life to make it worth living, would consider only for a moment that his act is a felony and punishable by imprisonment or a fine or both, and thus abstain from committing it? Hardly.

This law is made for attempted suicide, as I mentioned, for such who unfortunately do not succeed in their endeavor, or such who did not care to succeed, viz: hypocrites. In both cases it does not strike the person for whom it is intended. The dead can not be reached by the law, and it is really the dead for whom it was passed. The small portion of unsuccessful unfortunates who actually meant business is a minimum number of the class coming under its attentions. They are twice to be pitied rather than punished.

It is the accepted view that a member of organized society,

of the state, has obligations toward this organization which compel the individual to bear his lot without a murmur, and continue in misery until natural causes relieve him or her therefrom.

May be this is morality, it is certainly not common sense.

I do not pretend that every one in temporary troubles should commit suicide and thus deliver his ownself from threatening inconveniences. But I do insist that there are cases in which suicide is the best and only way to solve the question of individual misery, especially if no one but the suicides own self will gain or lose by the act, or more so, if his nearest and dearest will materially gain by it. I know of one case, an oil broker, whose financial ruin was staring him in the face, who had a marriageable daughter and a son hardly at the close of his college term, who, by his financial and social ruin would have been thrown on the mercy of the world, with possibly no chance to a bright future.

There were two ways open to this man:

Go into bankruptcy, ruin the bright out-look of his children, and most likely, at his age, become a burden to them for the rest of his days, or commit suicide, and with the sum realized have his affairs settled and leave the necessary pecuniary means to his children, thus clearing the way for them and their future. I may add that in this case the man in question selected the latter method and with the \$8,000 left to his daughter and his son, two lives at least were spared from otherwise unavoidable misery and penury.

Has this man committed a felony in the moral sense of the term? Hardly! No more than the mother who steals a loaf of bread to keep her starving children alive.

This case is simply an example that there are cases in which the "*Right to commit suicide*" ought not to be withheld from the sufferer by any law of God or man.

Furthermore, is it just, while we have no word of approval or denial in the very serious question of being placed into this world, we should also be denied the right to leave it ad libitum?

I cannot agree to believe any legal restraint the successful means to prevent or even reduce suicidal acts.



DISTINGUISHED MEMBERS OF THE MEDICO-LEGAL SOCIETY.

EX-JUSTICE. STEPHEN J. FIELD,
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L. L. GILBERT, ESQ.,
Pittsburg, Pa.

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Toronto, Ontario.

MEDICO-LEGAL CONGRESS, VACATION OF 1895.

HELD AT THE CITY OF NEW YORK, SEPTEMBER 4TH, 5TH
AND 6TH, 1895, UNDER THE AUSPICES OF THE
MEDICO-LEGAL SOCIETY OF NEW YORK.

OFFICIAL PROGRAM.

The Congress will assemble at the United States Court Rooms, Post-office building, Broadway, New York City, on Wednesday, September 4th, 1895, at 10 o'clock a. m.

ORDER OF EXERCISES.

1. Hon. Rastus S. Ransom, Chairman of the Committee of Arrangements, will preside, and make an opening address.

Short addresses, limited to five minutes each, will be made by the following gentlemen and others:

Hon. Roswell P. Flower, ex-Governor; Hon. Noah Davis, ex-Presiding Justice Supreme Court; Judge Calvin E. Pratt, Supreme Court of New York; Recorder John W. Goff; Hon. Charles W. Dayton, Postmaster of New York City; Forbes Winslow, M. D., of London; Senator Charles L. Guy, of New York; Geo. L. Porter, M. D., of Bridgeport, Conn.; W. B. Outten, M. D., Chief Surgeon M. P. Railway System, of St. Louis, Mo.; Prof. R. Ogden Doremus, of New York, Ex-President of Medico-Legal Society; William J. O'Sullivan, Esq., of New York; Judge Abram H. Dailey, of Brooklyn, ex-President Medico-Legal Society; Frank H. Caldwell, M. D., Chief Surgeon Plant System, of Florida; Surgeon C. B. Kibler, M. D., ex-President Erie Railway Surgeons; W. S. Harnden, M. D., President New York Railway Surgeons, of Waverly, N. Y.; Hubbard W. Mitchell, M. D., President Medico Legal Society; Albert Bach, Esq., Vice-President Medico-Legal Society; Julius H. Seymour, Esq., of New York; Clark Bell, Esq., ex-President Medico Legal Society, and other representative members of the Bar, Bench, Medical, Chemical and Scientific professions.

2. Organization of the Congress and election of officers.
3. Address of President-elect.

WEDNESDAY, FIRST DAY.

September 4th, 1895—Afternoon Session at 2 p. m.

I. *Psychology and Psychological Medicine*—In charge of the officers of the Psychological Section of the Medico-Legal Society, who are as follows :

PROF. ELLIOTT COUES, of Washington, D. C., Chairman.

VICE-CHAIRMEN.

Clark Bell, Esq., New York.

Harold Browett, Esq., Shanghai, China.

C. Van D. Chenoweth, Mass.

F. E. Daniel, M. D., Texas.

Robert J. Nunn, M. D., Georgia.

A. E. Osborne, M. D., California.

Jas. T. Searcy, M. D., Alabama.

Henry Hulst, M. D., Michigan.

This branch is sub-divided into four departments.

FIRST DEPARTMENT.

(a) *Insanity and Mental Medicine*—In charge of Forbes Winslow, M. D., London, Chairman, and the following Vice-Chairmen :

T. S. W. Burgess, M. D., Superintendent, etc., Montreal, Canada.

Alice Bennett, M. D., Superintendent, etc., Norristown, Pa.

Daniel Clark, M. D., Superintendent, etc., Toronto, Canada.

Richard Dewey, M. D., Superintendent, etc., Milwaukee, Wis.

W. F. Drewry, M. D., Superintendent, etc., Petersburg, Va.

W. B. Fletcher, M. D., Superintendent, etc., Indianapolis, Ind.

Clarke Gapen, M. D., Superintendent, etc., Kankakee, Ill.

Prof. Charles H. Hughes, M. D., St. Louis, Mo.

Thos G. Morton, M. D., Chairman State Lunacy Board, Phila., Pa.

E. C. Mann, M. D., Superintendent, etc., New York City.

Frank P. Norbury, M. D., Jacksonville, Ill.

G. R. Trowbridge, M. D., Buffalo, N. Y.

D. R. Wallace, M. D., ex-Superintendent, etc., Waco, Texas.

Short addresses will be made, limited to five minutes, by Forbes Winslow, M. D., Clark Bell, Esq., W. B. Fletcher, M. D., E. C. Mann, M. D., D. R. Wallace, M. D., of Texas, and others.

The following papers will then be read, Selden H. Talcott, M. D., in the chair :

Forbes Winslow, M. D., London, "The Progress of Lunacy." Discussion opened by E. C. Mann, M. D., of New York.

W. B. Fletcher, M. D., Indianapolis, "What Constitutes Unsoundness of Mind?" Discussion opened by Albert Bach, Esq.

Frank P. Norbury, M. D., Jacksonville, Ill., "The Mental Symptoms of Premature Sexual Decay." Discussion opened by W. B. Fletcher, M. D., of Indianapolis.

James R. Cocke, M. D., Boston, Mass., "Latent Hysteria as a Cause of Temporary Mental Disease."

Prof. C. H. Hughes, M. D., St. Louis, Mo., "Paranoia."

Wm. F. Drewry, M. D., Petersburg, Va., "Simulation of Insanity. A Medico-Legal Study."

G. E. Shuttleworth, M. D., Richmond, England, "Legal Responsibility in Idiotic and Feeble-Minded Persons."

Albert Bach, Esq., New York, "Necessity of Amendments of the Law of New York Appertaining to Commitments of the Insane." Discussion opened by Theodore H. Kellogg, M. D., of Willard Asylum.

Clark Bell, Esq., New York City, "Mechanical Restraint of the Insane." Discussion opened by Alice Bennett, M. D., of Pennsylvania.

Simon Fitch, M. D., Halifax, N. S., "Sanity, Insanity and Responsibility."

Discussion will be limited to five minutes for each speaker, and the rule rigidly enforced.

SECOND DEPARTMENT.

(b) *Inebriety*—T. D. Crothers, M. D., in the Chair, and the following Vice-Chairmen:

D. L. Brower, M. D., Chicago, Ill.	E. C. Mann, M. D., New York.
E. T. Burk, M. D., 140 Fort Green Place, Brooklyn.	L. D. Mason, M. D., Brooklyn. R. Osgood Mason, New York.
W. H. Henchman, M. D., Ann Arbor, Mich.	Isaac N. Quimby, M. D., Jersey City, N. J.

Short five-minute addresses will be made by T. D. Crothers, M. D., Forbes Winslow, M. D., George Chaffee, M. D., I. N. Quimby, M. D., Lewis D. Mason, M. D., Prof. Isaac Lewis Peet, Hon. C. H. Blackburn, of Cincinnati, Ohio, S. B. W. McLeod, M. D., of New York, Mary Louise Thomas, of New York, James R. Cocke, M. D., of Boston, Eliza Archard Connor, of New York.

The following papers will be read, Hon. Noah Davis, of New York, in the chair.

Norman Kerr, M. D., London, "What Shall We Do with the Alcoholic Inebriate, Apparently Insane?"

Lewis D. Mason, M. D., Brooklyn, N. Y., "Questions of Responsibility in Alcoholic Coma, Found on the Street."

Isaac N. Quimby, M. D., Jersey City, N. J., "Alcoholic Anæsthesia a Factor in Crime."

E. C. Mann, M. D., New York, "Inebriety and the Opium Habit in Their Relation to Testamentary Capacity."

T. D. Crothers, M. D., "Legal Responsibility in Inebriety."

Discussion limited to five minutes, each speaker.

SECOND DAY.

THURSDAY, September 5—Morning Session, 10 a. m.

THIRD DEPARTMENT.

(c) *Sociology and Criminology*—Hon. Moritz Ellinger,

Chairman, in the Chair, and the following Vice-Chairmen:

Daniel R. Brower, M. D., Chicago, Ill.	Gustave Boehm, Esq., New York.
Wm. Lee Howard, M. D., Baltimore, Md.	F. L. Hoffman, Esq., Newark, N. J.
Hon. Rastus S. Ransom, New York.	Forbes Winslow, M. D., London

Short five-minute addresses will be made by Hon. Moritz Ellinger, Austin Abbott, Esq., Clark Bell, Esq., of New York; T. D. Crothers, M. D., Judge Louis J. Conlon, of New York; Judge A. J. Dittenhoefer, Hon. Noah Davis, William Lee Howard, M. D., of Baltimore; Hon. Rastus S. Ransom, Prof. W. X. Sudduth, of Chicago, Ill.; Judge Talmage, of Bridgeport, Conn., and others.

The following papers will then be read, Hon. Rastus S. Ransom in the chair:

Forbes Winslow, M. D., London, "Suicide Considered as a Mental Epidemic." Discussion opened by M. Ellinger, Esq.

Gustav Boehm, Esq., New York City, "Suicide and the Right to Commit It." Discussion opened by Albert Bach, Esq.

Gustav Boehm, Esq., New York City, "Prostitution—The Evil; The Cure; Legislation, Etc."

Daniel R. Brower, M. D., 597 Jackson Boulevard, Chicago, Ill., "Criminality a Disease, Its Etiology and Treatment."

Dr. Havelock Ellis, M. D., London, "Sexual Inversion, with Analysis of Thirty-Six New Cases." Discussion opened by William Lee Howard, M. D., of Baltimore.

Prof. Elliott Coues, Washington, D. C., "The Megalomania of H. P. Blavatsky, a Study of Criminal Alienism."

F. L. Hoffman, Esq., Newark, N. J., "Medico-Legal Aspects of Child Insurance."

William Lee Howard, M. D., Baltimore, Md., "Sexual Perversion and Crime."

Moritz Ellinger, Esq., "Sociology and Criminology, Growth of Modern Civilization."

Moritz Ellinger, Esq., "The Case of Czynski."

P. C. Remondino, San Diego, Cal., "The Evolution of Theosophic Medicine and Its Present Standing in the United States."

H. R. Storer, M. D., Newport, R. I., "Fraudulent Life Insurance and its Relation to the Medical Examiner."

E. N. Buffett, M. D., Jersey City, N. J., "Is Death Painful?"

MORNING SESSION—SEPTEMBER 5TH, 11:30 A. M.

FOURTH DEPARTMENT.

(d) *Experimental Psychology*—Prof. W. X. Sudduth, of

Chicago, Chairman, in the Chair, and the following Vice-Chairmen:

Clark Bell, Esq., New York.
William Lee Howard, Baltimore, Md.
T. D. Crothers, M. D., Connecticut.

James R. Cocke, M. D., Boston.
Henry Hulst, Michigan.

Short five-minute addresses by Prof. W. X. Sudduth, Chairman; James R. Cocke, M. D., of Boston; William Lee Howard, M. D., of Baltimore; T. D. Crothers, M. D., of Hartford; H. S. Drayton, M. D., of New York; George F. Laidlaw, M. D., of New York; R. Osgood Mason, M. D., of New York; Ferdinand C. Valentine, M. D., of New York; Theodore H. Kellogg, M. D., of Willard Asylum; Judge Abram H. Dailey, of Brooklyn; Clark Bell, Esq., of New York; and others.

The following papers will be read, Hubbard W. Mitchell, President Medico-Legal Society, in the chair:

Prof. W. X. Sudduth, late Dean of the University of Minnesota, Minneapolis, now Chicago, Ill., "Hypnotism and Crime."

Clark Bell, Esq., New York City, "Hypnotism in the Courts of Law."

Prof. Edwin Checkley, New York, "Telepathy."

Sophia McClelland, "Psycho-Physiological Mechanism."

Elwood Wilson, Esq. "Hypnotism in the German Courts—The Czyski Case."

William F. Drewry, M. D., Petersburg, Va., "Duplex Personality." Discussion opened by T. D. Crothers, M. D., of Hartford, Conn.

Judge Abram H. Dailey, of Brooklyn, "The Hypnotic Power, What is It?"

Discussion limited to five minutes each speaker.

THURSDAY.

SECOND DAY, September 5th—Afternoon Session, 2 p. m.

FIFTH DEPARTMENT.

Medico-Legal Surgery—Granville P. Conn, M. D., Chairman, and the following committee:

Clark Bell, Esq., New York.
Hon. C. H. Blackburn, Cincinnati, O.
Judge Abram H. Dailey, Brooklyn.
Hon. George W. Fellows, New Hampshire.
W. C. Howell, Esq., Iowa.
Judge W. D. Harden, Georgia.
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Judge W. A. Francis, Montana.
Judge Calvin E. Pratt, Brooklyn.
Hon. George R. Peck, Chicago.

M. Cavana, M. D. Oneida, N. Y.
F. H. Caldwell, M. D., Florida.
Charles K. Cole, M. D., Montana.
F. B. Downs, M. D., Connecticut.
B. F. Eads, M. D., Texas.
Prof. A. P. Grinnell, Vermont.
R. S. Harnden, M. D., New York.
George Goodfellow, M. D., Arizona.
C. B. Kibler, M. D., Pennsylvania.
W. B. Outten, M. D., Missouri.

Short five-minute addresses will be made by W. B. Outten, M. D., Chief Surgeon M. P. Railway System; Frank H. Caldwell, M. D., Chief Surgeon Plant System, Florida; H. W. Mitchell, M. D., President Medico-Legal Society; George Goodfellow, M. D., Chief Surgeon; George Chaffee, M. D.; C. B. Kibler, M. D.; Hon. C. H. Blackburn, of Cincinnati; Judge Calvin E. Pratt, of Brooklyn; F. B. Downs, M. D., of Bridgeport; Clark Bell, Esq., of New York City; and others.

The following papers will then be read, Chief Surgeon W. B. Outten, M. D., M. P. Railway System, and Judge A. L. Palmer, of the Supreme Court of New Brunswick, in the chair:

Prof. A. M. Phelps, New York, "Duties of the Railway Surgeon to the Corporation, to the People, and to Himself."

W. B. Outten, M. D., Chief Surgeon M. P. R'y Co., St. Louis, Mo., "Mental States of Railway Employees."

W. B. Outten, M. D., Chief Surgeon M. P. R'y Co., St. Louis, Mo., "Tuberculosis in Legal Medicine."

H. W. Mitchell, M. D., "Shock in Railway Surgery."

George Chaffee, M. D., "Is the Railway Hospital an Economy?"

AFTERNOON SESSION—SEPTEMBER 5TH, 3 P. M.

SIXTH DEPARTMENT.

Medical Jurisprudence and Miscellaneous—Judge A. H. Dailey, Chairman, in the chair, and the following Vice-Chairmen:

Clark Bell, Esq., N. Y., New York.
Albert Bach, Esq., New York.
H. W. Mitchell, M. D., New York.
Prof. Isaac Lewis Peet, New York.
Prof. R. O. Doremus, New York.

Moritz Ellinger, Esq., New York.
Hon. Jacob F. Miller, New York.
S. B. W. McLeod, M. D., New York.
Judge H. M. Somerville, Alabama.
F. B. Downs, M. D., Connecticut.

Short five-minute addresses will be made by the Chairman, Judge Abram H. Dailey, and the following ex-Presidents of the Medico-Legal Society: Clark Bell, Esq., Hon. Jacob F. Miller, Prof. R. Ogden Doremus, Dr. Isaac Lewis Peet, Judge H. M. Somerville, Hon. George H. Yeaman, the President, Hubbard W. Mitchell, and Hon. Moritz Ellinger, Esq., Albert Bach, Esq., and S. B. W. McLeod, M. D.

The following papers will then be read, Judge Calvin E. Pratt, Supreme Court of New York, in the chair:

Mary Weeks Burnett, M. D., Chicago, Ill., "The Relation of Occult Medicine to Law."

Austin Abbott, LL. D., "Necessity of Medical Supervision for Criminal Arrests."

J. N. Hall, M. D., Denver, Colorado, "Gun Shot Wounds, Homicidal, Suicidal, or Accidental."

J. C. MacGuire, M. D., "Physician's Relation to his Client, and Obligations as a Citizen of the State." Discussion opened by Albert Bach, Esq.

Elza Archard Connor, N. Y., "Woman in the Light of Law and Medicine." Discussion opened by Mary Louise Thomas, of New York.

Ferd C. Valentine, M. D., "When Should Gonorrhoeal Patients be Allowed to Marry?"

Jennie Stanton Wilcox, M. D., Saratoga Springs, N. Y., "Woman in the Legal Profession, and its Relation to Medical Jurisprudence."

Irving C. Rosse, M. D., Washington, D. C., "Some Anomalies of Justice in the District of Columbia."

Kate L. Hogan, LL. B., Counsellor-at-Law, N. C., "The Legal Evolution of Woman."

Hon. C. H. Blackburn, Cincinnati, Ohio, "What are We?"

Sophia McClelland, Westchester, N. Y., "Credible Witnesses and Circumstantial Evidence." Discussion opened by William J. O'Sullivan, Esq., of New York.

P. C. Remondino, M. D., San Diego, Cal., "The Evolution of Theosophic Medicine and its Present Standing in the United States."

George Gordon Battle, Esq., Assistant District Attorney, New York City, "Intermediate Sentences as Affecting Congenital Criminals."

Gustav Boehm, Esq., of New York, "The Brutality of Capital Punishment."

Matilda Morehouse, of New York, "Compulsory Vaccination and Its Errors."

Discussion limited to five minutes, each speaker.

THIRD DAY.

FRIDAY, September 6—Morning Session, 10 a. m.

SEVENTH DEPARTMENT.

Chemistry—Prof. H. A. Mott, Jr., Ph. D., LL. D., Chairman, assisted by the following Vice-Chairmen:

Prof. R. Ogden Doremus, of New York. Prof. Charles A. Doremus, of New York.
 Prof. Thos. G. Wormley, M. D., Phila., Pa. George B. Miller, M. D., of Philadelphia.
 Prof. Victor C. Vaughan, of Michigan.

Short five minute addresses will be made by the Chairman, Prof. H. A. Mott, Prof. R. Ogden Doremus, Prof. Peter Townsend Austin, Prof. C. A. Doremus, and others.

The following papers will be read, Prof. R. Ogden Doremus in the chair :

Prof. Peter Townsend Austin, "Relation Between Chemical Constitution and Psychological Action."

Prof. H. A. Mott, New York, "Somatic Death by Poison."

Prof. Charles A. Doremus, M. D., of New York, "Two Remarkable Cases of Chronic Antimonial Poisoning."

Prof. Wm. B. McVey, P. H. C. F. C. S., of Boston, Mass., "The Chemical Importance of Ptomaines, or Cadaverick Alkaloids in Medico-Legal Analysis."

Discussion limited to five minutes, each speaker.

EIGHTH DEPARTMENT.

Microscopy—Prof. M. C. White, M. D., of New Haven, Conn., the Microscopist of the Medico Legal Society, and the following Vice-Chairmen :

Prof. Marshall D. Ewell, of Chicago.
W. Travis Gibb, M. D., of New York.

Hubbard W. Mitchell, M. D., of N. Y.
Robt. H. Reyburn, M. D., Wash'gt'n, D.C.

Short addresses will be made by Prof. M. C. White, M. D., of New Haven; Hubbard W. Mitchell, M. D., of New York; William J. O'Sullivan, Esq., of New York; Clark Bell, Esq., of New York, and others.

Answers will be read from chemists in response to the question:

"Can parcels of arsenious acid, obtained from different sources, or from different manufactories, be distinguished, and by what means?"

NINTH DEPARTMENT.

Bacteriology—Paul Gibier, M. D., Chairman, and the following Vice-Chairmen:

Bettini di Moise, M. D., Bacteriologist of the Medico-Legal Society.
Prof. V. C. Vaughan, of Michigan.

The following papers will be read by—

1. Paul Gibier, M. D., of New York City, "What May be the Part of Bacteriology in Forensic Medicine."

2. Paul Gibier, M. D., "Toxine and Anti-toxine of Tetanus."

Papers not previously read or passed when reached in their order will be taken up and read, and new papers too late for classification will be read.

THIRD DAY.

Afternoon Session, 2 p. m.

1. All papers not read will be taken up and read in their order.

Discussion limited to five minutes, each speaker.

THIRD DAY—CLOSING EXERCISES.

Friday, September 6th, 1895.

A formal reception will be tendered the members and delegates, their friends and guests, by the officers of the Medico-Legal Congress and the members resident in New York City, at the New York Press Club, 34 West 26th Street, from 6 o'clock to 7.30 o'clock, p. m., in charge of the Committee on Reception and Entertainment.

A banquet will be given at 7.30 o'clock, sharp, of the Medico-Legal Congress and its friends and guests at the New York Press Club, 34 West 26th Street, under the charge of the Committee on Reception and Entertainment:

Hubbard W. Mitchell, M. D., President of the Medico-Legal Society, Chairman.
George Chaffee, M. D., Treasurer of the Committee.
C. J. McGuire, M. D., of New York.
Prof. A. M. Phelps, M. D., of New York.
Julius H. Seymour, Esq., New York City.

Tickets, \$2, exclusive of wine.

Members will please promptly notify any member of the committee or the Secretary the number of seats subscribed for the dinner for themselves or friends. Ladies will be expected to attend.

The Chairman and Secretary of this Committee will act as a Committee on Invitations to the Reception and Banquet.

MISCELLANEOUS BUSINESS.

The Committee of Arrangements may modify the personnel of the Vice-Chairmen of each department by adding additional names, or otherwise change this programme.

The roll of members of the Congress will be kept open for those who desire to enter.

Applications for copies of the Bulletin of the Congress can be made at any time to any member of the Committee of Arrangements.

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- Sudden and Suspicious Deaths*, By CHARLES TEMPLMAN, M. D., Scotland.
Physical Examinations of Plaintiffs in Damage Cases, By GEORGE CHAFFEE, M. D., Brooklyn.
 " " " " By CLARK BELL, LL. D., of N. Y. City.
Amendments to Law of Commitment of the Insane, REPORT OF COMMITTEE MED. LEG. SOC.
Hypnotism and the Law, By CLARK BELL, ESQ., LL. D.
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Adulteration of Milk, By PROF. R. OGDEN DOREMUS, of N. Y.
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What Shall be Done with Insane Inebriates?, By NORMAN KERR, M. D., of London.
Duties of Attending Physicians in Railway Damage Cases. By CLARK BELL, ESQ., LL. D., of N. Y.
The Legal Test of Insanity. R. L. GUERNSEY, ESQ., of the New York Bar.
Sexual Perversion. WM. LEE HOWARD, M. D., of Baltimore, M. D.
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Progress of Psychological Studies. By SOPHIA McCLELLAND.
Psychological Progress. By MARGHERITA A. HAMM, of New York.
Gas Poisoning. By PROF. W. B. McVEY and I. G. COXWELL, of Boston; CHAS. A. DOREMUS, of New York; VICTOR C. VAUGHAN, of Michigan; M. C. WHITE, of Yale, and DR. GEO. B. MILLER, of Philadelphia.
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The McNaughten Case; Recent Judicial Evolution as to Criminal Responsibility of Inebriates; Dying Declarations; Malpractice; Privileged Communications; Railway Surgery in Law and Medicine; Expert and Opinion Evidence; Suggestion in Treatment of Disease; Editorial Responsibility and the Law of Libel; The Office of Coroner and its Abolition—Memorial Select Committee; Penology and Prisons; The Elmira Reformatory and the State Board of Charities; The Railway Surgeon and the Law; Railways and Railway Surgeons; Hospitals for the Insane and Their Treatment; The True Field of Duty of the Railway Surgeon; Psychological Section, Medico-Legal Society, January 1, 1895; Telepathy in Insects and Animals; Hallucinations Among the Insane; Appendix.

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Attending Physician in Cases of Railway Surgery; The New Lunacy Stat-
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Supreme Court of the States and Provinces of North America.

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Series 4 of Volume I. of this work is now ready for delivery. It will embrace the States of Pennsylvania and Delaware. The historical sketch of the Pennsylvania Supreme Court is prepared by Judge F. Carroll Brewster, of Philadelphia. The portraits will be from the private collection of Judge James T. Mitchell, one of the Judges of the Supreme Court of Pennsylvania. The sketch of Pennsylvania is in the September number of the MEDICO-LEGAL JOURNAL.

The historical sketch of the Supreme Court of Delaware is from the pen of Hon. Ignatius C. Grubb, of the Supreme Bench of that State, who has also collected the portraits of the Judges and ex-Judges for the work, and is in the December number (1894) of the MEDICO-LEGAL JOURNAL. Three series of this volume have already appeared.

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The thanks of the editor is due to Hon. James T. Mitchell, of the Supreme Court of Pennsylvania, for his aid in procuring the illustration of the members of that court, and for valuable suggestions as to the work. Also to Judge F. Carroll Brewster, who has prepared the sketches of that court and bench.

Judge Ignatius C. Grubb, has supplied, with infinite pains and care, the same data for the State of Delaware. The illustrations for Delaware will embrace all the Chief Justices of that State, all the Chancellors, and the present Bench of the Court of Errors and Appeals of Delaware.

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Judge Simeon E. Baldwin, of Connecticut, of the Supreme Court of that State, has also completed the historical sketch, but the entire work for the State is not quite ready.

Mr. Ralph Stone and Mr. H. D. Jewell, of Grand Rapids, Michigan, have been designated by the Judges of the Supreme Court to write the sketch for that State. Judge Conway W. Noble, of Cleveland, is engaged on the work for the State of Ohio. E. C. Smith, Esq., of the Raleigh Bar, has been selected by the Chief Justice of the Supreme Court of North Carolina for a like service in that State.

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SUPREME COURT OF NORTH CAROLINA.

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SUPREME COURT OF TEXAS.

AUSTIN, 1894.

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